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Current Topics.

The Law Society: Annual General Meeting.

IN view of the report appearing on p. 591 of the present issue, only the briefest allusion will be made here to the proceedings at the annual general meeting of The Law Society, held on 9th July. Mr. F. E. J. SMITH has been elected President, and Mr. A. M. INGLEDEW, Vice-President of the society for the year 1937–38. Sir HUBERT DOWSON, the retiring President, who was in the chair, indicated that the London profession had responded to Sir HARRY PRITCHARD'S appeal for additional assistance in Poor Person's work, and emphasised the importance of protecting the great organisation which had been built up during the last eleven years and had proved of such enormous benefit to so many poor people. He denied the statement recently appearing in the public press that the council was out of touch with the real problems of the profession and instanced the magnitude and variety of the daily correspondence in the society's office, and the activities of the Scale and Professional Purposes Committees in this connection. He also announced that the publishers encouraged him to hope that the new edition, a single volume, of the "Solicitors' Remuneration Digest" and "Law, Practice and Usage" would be available before the end of the long vacation. A motion designed to promote monthly discussion at the society's hall, of matters affecting members' professional work, was carried, and it was intimated that the council would take the matter into consideration at an early date.

Finality of House of Lords' Decisions.

IN a note on the decision of the House of Lords in the recent case of *Fender* v. *Mildmay, The Spectator*, after alluding to the divergence of judicial opinion on the question at issue, concluded with these words: "So Miss Fender gets her £2,000. But since five judges in all were against her and only four with her, the law on the point at issue can hardly be said to be convincingly established." Whether one agrees or disagrees with the decision ultimately arrived at, the law is certainly established and can be altered, if at all, only by the Legislature. In earlier days this doctrine was not regarded as clearly settled as it has since become. Thus LORD ELDON, when Lord Chancellor, said in one case that "a rule of law laid down by the House of Lords cannot be reversed by the Chancellor . . . The rule of law must remain till altered by the House of Lords," thus implying that the House had an inherent power to do this. Even Lord Chancellors are, however, not always consistent, for the same occupant of the woolsack, in another case, used expressions to the contrary effect. One of his successors, LORD ST. LEONARDS, declared that the House was not bound by a rule of law, if, upon a subsequent occasion, it should find reason to differ from it, and, he added, that the House, like every other court of justice, possessed an inherent right to correct an error into which it might have fallen. LORD CHANCELLOR CAMPBELL took the more modern view that a decision of the House could be varied or reversed only by Parliament. These conflicting dicta were brought before the House and elaborately discussed in *London Tramways Company* v. *London County Council* [1898] A.C. 375, when LORD HALSBURY, LORD MACNAGHTEN, LORD MORRIS and LORD JAMES OF HEREFORD laid it down as clear that a decision of the House on a question of law is conclusive and binding on the House in subsequent cases, that its correctness in point of law cannot be enquired into, and that its effect cannot be got rid of save by an Act of Parliament, as was in fact done by the Statute 5 Edw. 7, c. 12, which undid in large measure the decision of the House in the Scottish church case.

In Other Courts.

WHILE normally the decisions of other courts can be corrected, if that is deemed necessary, only by a higher tribunal, the rule in this matter is not so rigid as it has been held to be in the House of Lords. As to the practice of the Judicial Committee of the Privy Council, it was laid down in *In re Transferred Civil Servants (Ireland) Compensation* [1929] A.C. 242, that there is no inherent incompetency in ordering a rehearing of a case already decided by the Board even when a right of property is involved, but that such an indulgence will naturally be granted only in exceptional cases. So, too, but only on rare occasions, has it happened that a point of law involved in a former decision of the Court of Appeal, constituted as it normally is of three members, has been reconsidered by a full court consisting of six members, not of course with the object of reversing the actual decision so far as the parties to it were concerned—it cannot do that—but to test its correctness in point of law. There is something to be said for a similar practice being adopted in the House of Lords.

Marriage Bill: Provision for Insane Respondent.

As was noted in this column last week, the House of Lords has accepted the innovation in the Marriage Bill that insanity shall, in certain circumstances, constitute a ground for divorce. We are now in a position to indicate the new provisions in regard to alimony, etc., dictated by the fact that for the first time a petition may be founded on the misfortune and not the fault of the respondent. Under the amendments of the present law as to maintenance, settlement of property, etc., there is a clause contemplating provision by a petitioning wife for an insane husband, while a petitioning husband may be required to make provision for an insane wife. The clause is to the effect that s. 190 of the Supreme Court of Judicature (Consolidation) Act, 1925, shall apply in any case where a petition for divorce or judicial separation is presented by the wife on the ground of her husband's insanity as if for references to the husband there were substituted references to the wife, and for references to the wife there were substituted references to the husband; while in any such case, and in any case where a petition for divorce, nullity, or judicial separation is presented by the husband on the ground of his wife's insanity or mental deficiency, the court is empowered to order the payments of alimony or maintenance under the said section to be made to such persons having charge of the respondent as it may direct (cl. 10 (2)). One of the factors to be taken into account in applying s. 190 of the Supreme Court of Judicature (Consolidation) Act, 1925, is, of course, the conduct of the parties, and thus the present law anticipates to some extent the difference between a petition founded on a wife's insanity as compared with one supported by her alleged adultery. The latter part of the new clause provides for payment to the proper quarter in petitions based on the respondent's insanity. Moreover, under a further provision, a wife petitioning for divorce on the ground of her husband's insanity is placed in the same position as a husband petitioner in relation to the discretionary power of the court to secure gross or annual sums of money for the benefit of the children (see s. 193 of the Supreme Court of Judicature Act, 1925, and cl. 10 (4) of the Bill).

Coal Royalties: Progress of Bill.

THE Coal (Registration of Ownership) Bill has now passed through all the requisite stages in the House of Lords, but, as illustrative of a difficulty inherent in this kind of legislation, it is thought that some allusion should be made to an amendment moved by LORD HASTINGS on report. The amendment was by leave withdrawn, but the mover stated that there was a distinct difference of opinion between the legal advisers of the Government and of the royalty owners, and that he would not give up hope of negotiating agreement with the Minister of Mines in the matter. The amendment proposed the insertion of a new clause broadly to the effect that acts or omissions in connection with registration, the ascertainment by the Board of Trade of any facts to which particulars relate, and the determination by the Board or the High Court of any question in connection with any application for registration of particulars should not (otherwise than for the express purposes of the proposed Act) alter, prejudice or affect the title to any property or the validity or nature of any rights, interests or obligations or the validity or invalidity of any claims of any person. It was urged that the interests of the owner of property ought not to be prejudiced by any decision which the Board might reach, and that the registration of particulars or an error in the particulars should not enable even the High Court to prejudice the owner in respect of anything that might happen in the forthcoming comprehensive measure for "unification" (in plain English, compulsory acquisition by the State) of which the present Bill is but a preliminary. The effect of such an amendment as that proposed on the general utility of the present measure need not, perhaps, be stressed; indeed the EARL OF MUNSTER stated that the particulars of registration could not be used for the purpose of the main Bill without a clause in that Bill to repeal or modify the amendment the House was then being asked to accept. Practitioners will readily appreciate difficulties attendant upon the putting into effect of a system of compulsory registration for the first time of what, in many cases, may well prove to be a complicated set of rights (notwithstanding the simplification following the deletion on the Second Schedule) and will, moreover, be alive to the importance of an owner's rights not being liable to be prejudiced by some involuntary error or omission. Moreover, apart from questions of procedure (as to which see Pt. I of the Third Schedule), it may be recalled that the Bill contemplates registration not only in regard to the coal in which a holding subsists and matters of title requisite for identification, but also of "such other matters relating to the coal hereditaments . . . or to the title thereto, as appears to the Board, either on general grounds or having regard to the particular circumstances of the holding, to be material for the purpose of rendering the information as to proprietary interests recorded in the register complete." What the outcome may be, it is, of course, impossible to predict. But the difficulty is one to which, it is thought, the attention of readers should be directed. Meanwhile, the Bill has been read a second time in the House of Commons.

Public Trustee Report.

THE twenty-ninth general report on the office of the Public Trustee (H.M. Stationery Office, price 2d. net) records for the year ending 31st March, 1937, a continued expansion of business, though there has been a slight diminution in the rate of expansion compared with the two immediately preceding years. Receipts for the year amounted to £328,160 and expenses to £303,137. These figures show increases of £8,162 and £7,104 respectively over those for 1935-36, so that the surplus, £25,023, is rather greater than that for the previous year. Since 31st March, 1928, when there was a deficit of £92,885 in respect of the period since the inception of the office, the accounts have shown a surplus which has varied from £6,640 (1930-31) to £39,679 (1928-29). A decrease in the number of cases by twenty-three and an increase in the aggregate value of new business, including accretions to existing trusts, of £314,329 last year, compared with the previous year, may, perhaps, be regarded as symptomatic of an increasing tendency to utilise the facilities offered by the Public Trustee Office on the part of the less penurious section of the community. If this were accompanied by an avoidance of the advantages offered in regard to the administration of the smaller trusts, it could only be regretted, and it is satisfactory to be able to record that of the 948 cases accepted during the past year, approximately 58 per cent. were under £5,000 in value. The nominal capital value of the funds now under administration is £218,132,218, while there is, in addition, settled and other land, the value of which is roughly estimated to be £53,300,000, and approximately £2,500,000 cash at banks.

Queen Anne's Bounty: Report for 1936.

BRIEF reference may be made to a few of the salient figures contained in the recently issued report for 1936 of the Governors of Queen Anne's Bounty as illustrative of the activities of that body, particularly with regard to various Statutes and Measures, during the past year. Loans to incumbents for various purposes—building, improving, enlarging or purchasing parsonage houses among them—under the Gilbert Acts during 1936, numbered 445 and amounted to a total of £51,467, the total amount outstanding on these loans being at present £238,743. Under the Ecclesiastical Dilapidations Measures the Governors disbursed during the year a total of £264,073 and collected £219,236

from incumbents in respect of assessments for repairs. Loans outstanding under the Measure now amount to £32,855. The Governors have received £11,862 from the sale of land originally acquired for benefices through the Bounty and £162,045 from seventy-eight sales for which consent was given under the Parsonages Measure, 1930, and have expended from various sums in their hands belonging to benefices £153,000 in acquiring parsonage houses and lands or in building or improving parsonages. During the year they received on capital and income accounts the total sum of £1,617,064 and disbursed £1,604,925. The stocks held for specific benefices amount to over £6,880,000, nominal value, representing capital belonging to upwards of 12,000 benefices, while the total sum standing in the Governors' books to the credit of benefices in respect of money invested on corporate account exceeds £8,650,000. A sum of about £52,000,000 3 per cent. redemption stock is to be issued to the Governors under the Tithe Act, 1936, as compensation on behalf of benefices and ecclesiastical corporations. It is pointed out that, excluding operations under the Tithe Act, 1936, the purposes for which the Governors are empowered to make grants out of their surplus revenue are regulated by their charter and by rules made from time to time by the Crown, and the Governors are not able at present to make grants out of surplus revenue to benefices exceeding £300 per annum net. The sum of £29,642 is available for the present year for grant purposes. This is the whole amount available during 1937 for grants for urgent sanitary and other improvements and the purchase of fixtures in parsonage houses and grants in respect of dilapidations to parsonages and glebe buildings. The ninth and final report of the Tithe Committee of Queen Anne's Bounty was considered in these columns in our issue of 12th June.

Central Criminal Court: July Session.

THREE charges of murder and two of attempted murder figure in the list for the July session of the Central Criminal Court, which opened on Tuesday. Among other charges included in the list are four of bigamy, four of demanding money with menaces, two of robbery with violence and one alleged share-pushing fraud. From the point of view of the number of persons awaiting trial, the calendar for the present month is not an unusually heavy one, the total at the opening of the session having been fifty-two. But the calendar for June was unusually heavy and the business of that session was not concluded until the 9th of the present month. Cases in the High Court Judge's List are being dealt with by FINLAY, J.

Recent Decisions.

IN *Queen Anne's Bounty* v. *Tithe Redemption Commission* (p. 588 of this issue), BENNETT, J., held that two sums which were due in respect of tithe rentcharge and had been the subject of county court orders for recovery, one made before and the other after the coming into operation of the Tithe Act, 1936, constituted "arrears" within the meaning of s. 20 of the Act. The foregoing section provides for the recovery by the Tithe Redemption Commission of arrears of tithe rentcharge due on or before 1st October, 1936, and for the payment over thereof to the tithe owner. Section 20 (1) enacts: "The extinguishment by this Act of tithe rentcharge shall not affect any right or liability in respect of sums which may become due on account thereof before the appointed day (in this Act referred to as 'arrears')," and the learned judge intimated that there was no real grammatical difficulty in referring "arrears" to sums due and not to rights and liabilities in respect of sums. Costs for the recovery of which provision was made in the aforesaid orders were not, it was held, within the section.

In *Lucas, A. F.* v. *Lucas, L. J.*: *Lucas* v. *Lucas and Daniels* (*The Times*, 9th July), Sir BOYD MERRIMAN, P., granted a decree of judicial separation for which a wife prayed on the ground of her husband's alleged cruelty, and dismissed a cross-petition by the husband for divorce on the ground of the wife's alleged adultery with the co-respondent. The denial of this charge was accepted and the latter was dismissed from the suit.

In *Wyndham* v. *Jackson* (*The Times*, 9th July), GODDARD, J., gave judgment for the plaintiff for a sum certified to be due by a master's certificate on a point dealt with by the Master at the request of the parties but not covered by an order for an account granted by FARWELL, J., in an action between the parties. FARWELL, J., declined to consider a summons taken out by the defendant to discharge or vary the certificate which his lordship held to be a nullity, while a further summons, taken out by the plaintiff to enforce the certificate, was dismissed by LUXMOORE, J., who, however, expressed the opinion that the certificate could be regarded as an award. Whereupon the present action was brought in the King's Bench Division with the result indicated. A stay of execution was granted pending appeal. Cases cited for the plaintiff included *Craig* v. *Duffy*, 8 Bell 308; *Dudgeon* v. *Thompson*, 1 Macq. 714; *Harrison* v. *Wright*, 11 M. & W. 816; and *Burgess* v. *Morton* [1896] A.C. 136.

In *Re Borwick's Will Trusts*: *Holland* v. *Woodman* (p. 587 of this issue), SIMONDS, J., held that the domicil of the late Lady Borwick, at the date of her death, was English, and intimated that the possibility of the Court of Appeal holding, contrary to a decision which he, the learned judge, had given, that the domicil of the late Lord Borwick, who predeceased his wife by some two months, was French, did not preclude him from coming to the foregoing conclusion in regard to Lady Borwick.

In *Strickland* v. *Bartolo* (*The Times*, 13th July), the Judicial Committee of the Privy Council declined to grant the petitioner leave to appeal from a judgment of the Court of Appeal, Malta, which upheld a decision of the Civil Court (First Hall) in favour of the editor and director of the *Malta Chronicle and Imperial Servies Gazette* in an action in which the petitioner, formerly head of the Ministry in Malta, claimed damages for alleged libel. LORD ATKIN stated that the petitioner no doubt objected to the tone of the article complained of, but that did not make it defamatory. There was no ground for appealing against the decision of the two courts in Malta.

In *Taylor* v. *Taylor* (p. 587 of this issue, the Court of Appeal (GREER, SLESSER and SCOTT, L.JJ.) reversed a decision of MACKINNON, J., who held that a husband, not having deducted income tax in making payments under a separation deed, whereby he undertook to pay his wife £2 a week, to be increased to £3 a week if his earnings should reach the sum of £25 or upwards in any month, was not entitled to set-off the amount of the tax against a claim by the wife for the unpaid balance of the instalments. The Court of Appeal held that the appellant was entitled to deduct the amount of the tax (it was immaterial whether the payments were weekly or yearly) and reduced the judgment from £156 10s. to £116. See *Blount* v. *Blount* [1916] 1 K.B. 230; *Smith* v. *Smith* [1923] P. 191; *Clack* v. *Clack* [1935] 2 K.B. 109.

In *Coates* v. *Rawtenstall Corporation* (*The Times*, 14th July), the Court of Appeal (GREER, SLESSER and SCOTT, L.JJ.) upheld a decision of the Commissioner at Manchester Assizes to the effect that the defendants were liable in damages for personal injuries sustained by a three and a quarter year old plaintiff while on a chute installed in their recreation ground in that the accident, which was caused by a chain employed to prevent the chute being used on Sundays and normally kept padlocked having got across the chute, was attributable to a breach of duty owed by the defendants to the plaintiff on the footing that the latter was a licensee; but, on a cross-appeal by the plaintiff, the Court of Appeal increased the damages awarded to the child from £1,300 to £3,000.

The Duration of Separation Deeds.

KIRK V. *EUSTACE.*

THE House of Lords has now considered this case and its decision is reported at 81 SOL. J. 376; (1937), 53 T.L.R. 748. The judgment of the Court of Appeal in this case was also the subject-matter of a short article at 80 SOL. J. 905. The facts were quite simple and were as follows. A husband and wife entered into a deed of separation which was, in the words of Lord Atkin, "in a very common form." In fact, the deed was based on the precedent contained in the "Encyclopædia of Forms," Vol. 2, and which, in the Second Edition, appears at p. 234. The husband covenanted with the wife to pay to her "during her life" the sum of £2 a week. There were the usual non-molestation clauses, and a clause making the deed void on the resumption of cohabitation. The husband died and the widow claimed she was entitled to the weekly payment out of his estate. The executors refused payment. The widow thereupon brought an action against the executors for arrears, under the deed, and the deputy county court judge gave judgment in her favour. It is very pleasing to note the graceful compliment paid by Lord Atkin to the late Mr. W. H. Owen, who was the deputy judge. Lord Atkin said :—

> "From the judgment given by the late Mr. Owen, sitting as deputy county court judge—the judgment of a very careful, learned and experienced lawyer—he had apparently no doubt on the matter, and he gave reasons which appear to me to be convincing for holding that the plaintiff was entitled to recover."

The basis of his decision was that by s. 80 of the L.P. Act, 1925, the estate of the deceased covenantor was bound. The Court of Appeal (Scott and Slesser, L.JJ., Eve, J., dissenting) reversed this decision, and now the House of Lords (Lords Atkin, Thankerton, Russell of Killowen, Wright and Roche) have restored the judgment of the deputy county court judge.

It can be said at the outset that this decision is welcomed by the legal profession. The precedent mentioned above, mentions that if payment is to cease on the death of the husband the appropriate words in the covenant are "during joint lives," and if payment is to continue after the husband's death the expression to be used is "during the life of the wife." There must be very many deeds based on this precedent and consequently many wives rely on this clause for their protection after their husband's death, and the decision of the Court of Appeal to the contrary caused considerable consternation.

In view of the plain terms of the deed, it is interesting to see how the Court of Appeal came to the conclusion it did. Slesser, L.J., thought that there was a basic condition that the parties must be living apart, and that on the death of the husband they could not be living apart, and therefore the deed thereby became void. Scott, L.J., adopted a similar view and invoked the doctrine of frustration. In his view the payment after death could only take place if there was a permanent settlement, and not a mere separation deed.

Both the learned Lords Justices relied on Lush, on "Husband and Wife," which was quoted to them in argument. In the fourth edition of this book, at p. 444, it says :—

> "If the trusts of the deed are in effect a permanent settlement the annuity continues to be payable by the husband's executors after his death."

and on the same page :—

> "A covenant of a mere separation deed to pay to the wife an allowance during her life, if she continue to live separate, determines by her husband predeceasing her, and in the converse order obviously."

The force of Lush's argument was weakened by two things. In the first place, in editions before 1929, Lush had argued that divorce put an end to a separation deed, despite the fact that *Charlesworth* v. *Holt* (1873), L.R. 9 Ex. 38, had decided the contrary. *Charlesworth* v. *Holt*, however, was confirmed by the Court of Appeal in *May* v. *May* [1929] 2 K.B. 386, and Lush had, with regret, to abandon his previous view. In the fourth edition he says :—

> "In the previous editions of this work it was very forceably argued that since the trusts of a mere separation deed were extinguished by covertures termination by act of nature (i.e., death) they should suffer a like fate when the termination was brought about by act of law, e.g., dissolution."

Lush was right in saying that death was analogous to divorce in that each put an end to the marriage tie, but, inasmuch as *Charlesworth* v. *Holt* and *May* v. *May* had decided that separation deeds were not dependent on the marriage tie, he ought to have drawn the inference that, as divorce did not put an end to the deed, neither did death. This was the very argument used by Lord Atkin. He says :—

> "It has already been held that a covenant to pay for life, expressed in a separation deed, does not come to an end after the marriage tie has ceased to exist; in other words it does not come to an end on the divorce of the parties."

And he goes on to say the same principle applies in case of death.

The second weakness of Lush's argument was that he relied on cases, such as *Negus* v. *Forster* (1882), 46 L.T. 675, and *Nicol* v. *Nicol*, 31 Ch. D. 524. These were cases of reconciliation. The distinction between that type of case, and cases of death or dissolution of marriage is clear. In the absence of a clause voiding the deed on re-cohabitation, one can understand that if the parties are reconciled and resume cohabitation, the maintenance clause would not be enforceable, if there was no settlement, even if the words "during her life" were used. The wife, once cohabitation was resumed, would naturally be maintained by her husband, and it can be assumed that their differences having been settled, the husband will provide testamentarily for her. On the other hand, in cases of death or divorce, while the parties are still apart, the only protection for the wife is the deed, and it can be assumed that as the husband has lost his affection for his wife he will not provide for her in his will. Lord Atkin makes this point in the following passage :—

> "It is a mistake, with respect, to assume that, because the parties enter into a contract, the primary object of which is to secure that each shall continue to render services or forbearances to the other for a term of years, one of the promisors may not quite validly make a promise to continue to make a payment to the promisee after the period during which the mutual services or forbearances are to be rendered has come to an end. That seems to me to be this case. The parties have agreed to live separate, they have lived separate, the agreement has been performed so far as it can be performed up to the present, and there is no longer any obligation which could be said to be in force, or could be enforced by either party, to live apart. But what has that got to do with the covenant by the husband that, provided his wife does agree to live apart from him, he will after his death continue to provide for her maintenance—the most ordinary obligation for him to assume on the one part, the most ordinary obligation for the wife to stipulate for on her part, because if it were otherwise she would be left on his death without any provision at all for her maintenance, and obviously she is not in a position to expect to receive any relief from any of his testamentary dispositions."

With regard to frustration, in spite of Scott, L.J.'s, remark that this case was a "perfect illustration of the doctrine of frustration," the House of Lords had no difficulty in holding this was not a case of frustration at all. Lord Thankerton said : "I know that sometimes the word 'frustration' is regarded in legal circles as blessed equally with the word 'Mesopotamia,' but I confess that I canot see any justification for suggesting

its applicability in the present circumstances." And Lord Russell of Killowen said: "To speak of frustration with regard to a contract which has been carried out to completion in every detail except the one matter here in dispute appears to me to be a misuse of that word."

The effect of these words it is respectfully suggested will be wholly salutary. Courts will hesitate to imply terms into plain contracts. It should always be remembered that a term should only be implied in very exceptional circumstances, and only when in the absence of the term to be implied it is impossible to give business efficacy to the contract.

There remains the question of s. 80, L.P.A., 1925. That section provides that—

> "A covenant and a bond and an obligation or contract under seal made after the 31st December 1881 binds the real estate as well as the personal estate of the person making the same if and so far as a contrary intention is not expressed in the covenant bond obligation or contract."

There was no contrary intention expressed in terms in this deed but the majority of the Court of Appeal thought that such contrary intention could be gathered from the deed as a whole, that is, by implication. The House of Lords, however, were of opinion, that the statute did not apply to *implied* contrary intention, but only to *expressed* contrary intention.

Supposing the document in *Kirk's Case* had been merely an agreement and not a deed, would the decision have been the same? It is submitted it would. The reason is that it is plain from the words of the agreement that the parties intended the husband's estate to be bound. As Lord Atkin says: "As I have said, the statute quite plainly imposes an obligation which binds his estate unless the contrary intention is expressed. I find no contrary intention expressed in the deed. If I had to consider the intention of the parties at all I should have come to the conclusion that the intention was that the obligation was to last after the death of the husband, but it is unnecessary to decide that."

Company Law and Practice.

Power to set aside Profits to Reserve.

UNLESS the regulations of the company otherwise provide, a company may, without any special authority in its articles, carry profits to reserve. There is no principle which compels a company, while a going concern, to divide the whole of its profits among the shareholders. "Whether the whole or any part should be divided, or what portion should be divided and what portion retained, are entirely questions of internal management which the shareholders must decide for themselves, and the court has no jurisdiction to control or review their decision, or to say what is a 'fair' or 'reasonable' sum to retain undivided, or what reserve fund may be 'properly' required. And it makes no difference whether the undivided balance is retained to the credit of profit and loss account, or carried to the credit of a rest or reserve fund, or appropriated to any other use of the company. These are questions for the shareholders to decide subject to any restrictions or directions contained in the articles of association or bye-laws of the company" (*per* Lord Davey in *Burland* v. *Earle* [1902] A.C. 83, at p. 95).

Usually, however, the power to carry profits to reserve is not left to the implications of the law but is regulated by an express article. Thus, cl. 93 of Table A of the Companies Act, 1929, provides:—

> "The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for meeting contingencies, or for equalising dividends, or for any other purpose to which the profits of the company may be properly applied, and pending such application, may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit."

It may be noted that even in the absence of express authority, reserves may be invested in such securities as the directors think fit, subject to the control of the company in general meeting.

The implied, or even an express, power to set aside profits to reserve may be qualified by the provisions of the memorandum or articles of association of the company or by the terms of an issue of shares in such a way that dividends must be paid out of the profits before any part of those profits can properly be set aside to reserve. The shareholders may be given a right to have the profits applied in payment of dividend which is paramount to any power of the directors to set aside to reserves. Sometimes a by no means easy question of construction of the regulations of a company may arise on this point: is an article which directs the application of the profits in the payment of certain dividends subject or paramount to a power to set aside profits to reserve?

An illustration of this kind of case is provided by *Paterson* v. *R. Paterson & Sons Limited*, 54 S.L.R. 19. There the articles of association provided that Table A of the 1908 Act should apply so far as not "excluded, altered or modified by the following provisions." (Clause 99 of the 1908 Table A empowers the directors to set aside out of profits sums to reserve, and is couched in the same language as cl. 93 of the 1929 Table A, which I have quoted above.) The "following provisions" included an article (Art. 12), which was in these terms: "After allowing for all charges, including the directors' salaries, the profits of the company shall be applied as follows:—(*a*) In payment of a cumulative preferential dividend on the preference shares at the rate of 6 per cent. (*b*) In payment of dividends on the 'A' ordinary shares at the rate of 10 per cent. and on the 'B' ordinary shares at the rate of 5 per cent. (*c*) The balance of profits (if any) after paying the dividends on the 'A' and 'B' shares, to be divided between the holders thereof in proportion to their respective holdings." The question that arose was whether the directors had power to set aside a part of the profits to reserve before recommending a dividend. The House of Lords held that there was no such power, for that Art. 12 could not be reconciled with cl. 99 of Table A, and that the latter clause was therefore necessarily excluded. It was pointed out that the direction in Art. 12 was mandatory and compelled the total distribution of the year's profits; and further, that if the discretion to apply profits to reserve under cl. 99 of Table A did exist, its exercise might very well defeat the rights created by Art. 12. For although in the future the reserve fund were applied in profits, it did not follow that the same persons would have the benefit of these profits, or that they would be distributed amongst them in the same proportions, as would have been the case had the profits been at once distributed in manner provided by Art. 12.

In *Paterson's Case*, then, an express article directing the application of the whole of the profits in payment of dividends was held sufficient to exclude a power to set aside any part of the profits to reserve. In *Evling* v. *Israel & Oppenheimer Ltd.* [1918] 1 Ch. 101, provisions of the Company's memorandum of association were held to have a similar effect. There the memorandum provided that the profits of the company in each year should be applicable, (1) in payment of a cumulative preferential dividend of 7 per cent. on the preference shares; (2) in payment of a cumulative dividend at a rate not exceeding 2s. per share on the ordinary shares; (3) the surplus (if any) should be carried to a reserve fund until it amounted to £25,000; and (4) subject as aforesaid and to the provisions of Art. 126, the profits which the company should determine to distribute were to go to the ordinary shareholders.

Article 126 provided that the directors should set aside out of the profits of the company the reserve mentioned in the memorandum, and might before recommending any further dividend under cl. (4), *supra*, set aside out of the profits a further reserve fund.

In 1915 and 1916 the full dividend on the preference shares was paid and the remaining profits were carried forward or carried to reserve. An ordinary shareholder brought an action against the company claiming a declaration that the company was bound to apply the profits of the years 1915 and 1916, after paying the preference dividend, in payment of cumulative dividends of 2s. a share on the ordinary shares before applying any profits to reserve. In this he succeeded, Eve, J., holding (*inter alia*) that Art. 126 did not control or restrict any of the first three paragraphs which I have set out above; in other words, that the provisions of paragraphs 1 and 2 as to the payment of specified dividends were paramount to and overrode the power to set aside profits to reserve.

In *Bond* v. *Barrow Haematite Steel Co.* [1902] 1 Ch. 353, the question was whether the terms of certain special resolutions creating preference shares were such that an existing article authorising the creation of a reserve fund had been impliedly rescinded so far as the dividend on those preference shares was concerned. The articles of the company empowered the directors in the ordinary way to set aside profits to reserve before recommending any dividend; and there was also the fairly usual article providing that any new shares should be subject in all respects to all the provisions of the articles.

Subsequently, preference shares were created by resolutions which prescribed that the shares should entitle the holders to a 6 per cent. dividend "only after payment of the interest" payable on debentures of the company, and that if in any year the net profits of the company should not be sufficient to pay the dividend in full the net profits of any subsequent year should be applied in payment of arrears of dividend. It was argued that the terms of these resolutions constituted an absolute contract to pay the 6 per cent. dividend, which was paramount to the power under the existing articles to carry profits to reserve, and that that power must be treated as *pro tanto* abrogated. Farwell, J., however, held that the resolutions did not create new rights by impliedly rescinding the article as to the creation of a reserve fund. He admitted that some difficulty was created by the generality of the term "net profits" in the resolutions, but pointed out that the provision referring to net profits applied only to arrears, and came to the conclusion that the use of the words was not sufficient to rescind the articles as to reserve, and consequently that the resolutions must be read as subject to the provisions of the existing articles.

Although particular cases may present considerable difficulties of construction, I should observe that, generally speaking, there is little room for argument, as articles are so framed as to make it clear that the power to set aside to reserve is paramount to any right to dividend. This can be done either by making the articles declaring the rights as to dividend expressly subject to the article permitting the creation of a reserve, or else by defining the source of dividends as the profits "available for distribution" or "which the company may from time to time determine to distribute." Such expressions, coupled with an express article authorising the directors to create a reserve fund out of profits before recommending any dividend, leave the position free from doubt. But care should be taken in framing resolutions for the creation of new shares carrying special rights to dividend that those rights are not so expressed as to suggest that the company's profits will be applied in payment of the dividends before any sum is set aside to reserve For it will, I think, be agreed that an overriding discretion to utilise profits in the creation of reserves is most valuable, if not essential; though, I need hardly add, the discretion must be exercised in the general interest of all classes of shareholders, and not so as to favour one class at the expense of another.

A Conveyancer's Diary.

[CONTRIBUTED.]

Rectification of Written Instruments.—I.

WHERE parties have entered into a written instrument, such instrument is normally binding upon them in all its terms. If one of the parties has reason to be dissatisfied with the terms so expressed, certain remedies may be open to him. For example, he might seek to set up the common law defence of *non est factum*, a defence singularly difficult to establish. Or there may be ground for his resisting a claim for specific performance; or the remedies for innocent or fraudulent misrepresentation may be available. Alternatively, he may attempt to obtain rectification.

This purely equitable remedy deals with the written expression of the consensus of the parties, and not the enforceability of the agreement itself. The remedy consists in bringing the written expression of the agreement of the parties into conformity with their joint intention in executing it. It is necessary to distinguish between two sorts of case, namely, those where the agreement between the parties does, and those where it does not, create equitable interests in third parties. Such interests can only come into existence where an enforceable trust is created: "Our law knows nothing of a *jus quæsitum tertio* arising by way of contract. Such a right may be conferred by way of property, as, for example, under a trust, but it cannot be conferred on a stranger to a contract as a right to enforce the contract *in personam*": per Lord Haldane, in *Dunlop* v. *Selfridge* [1915] A.C. 847, at p. 853. Accordingly, there are four sorts of case where the written instrument does not accord with the intention of the parties: (1) The transaction may be a mere contract conferring no equities on third parties; if so—

(*a*) If the contracting parties are in agreement, the written instrument may be brought into line with their intentions by way of novation or amendment, and the court's assistance is unnecessary;

(*b*) If, however, one party insists on maintaining the written instrument, the other may apply to the court for rectification, and the matter will be fought out upon the evidence. Such a case is *Shipley U.D.C.* v. *Bradford Corporation* [1936] Ch. 375.

Alternatively, (2) the transaction may confer equitable rights of property upon third parties; if so, whether—

(*a*) The parties to the instrument are in agreement; or whether

(*b*) They are not, the instrument cannot be amended nor affected by novation without the intervention of the court, since the mere act of the original parties cannot destroy such equities.

It is essential, however, that the somewhat narrow compass of the doctrine of rectification should be appreciated. The remedy is governed by very precise rules. It is available only in cases of *mutual* mistake. Unilateral mistake is not enough. Mutual mistake means that the parties have a common intention in executing the instrument, and that the instrument does not accurately express that intention. The remedy consists in the court altering the written instrument so as to accord with that common intention.

The position is stated with great lucidity by Lord Chancellor Chelmsford in *Fowler* v. *Fowler*, 4 De G. & J. 250, 264-265: "The power which the court possesses of reforming written agreements where there has been omission or insertion of stipulations contrary to the intention of the parties and under a mutual mistake, is one which has been frequently and most usefully exercised. But it is one which should be used with extreme care and caution. To substitute a new agreement for one to which the parties have deliberately subscribed ought only to be permitted upon evidence of the clearest and most satisfactory description." His lordship then went on to quote a statement of Lord Thurlow to the effect that the

evidence must be "irrefragable," and explained that expression to mean that "the mistake must be proved by something more than the highest degree of probability, and that it must be such as to leave no fair and reasonable doubt upon the mind that the deed does not embody the final intention of the parties." He then explained that a person seeking to rectify an instrument on the ground of mistake must establish that "the alleged intention to which he desires it to be made conformable continued concurrently in the minds of all parties down to the time of its execution, and also must be able to show exactly and precisely the form to which the deed ought to be brought." Put summarily, then, it is necessary to prove—

(1) That the parties were *ad idem* on something right down to the time the instrument was executed;

(2) Exactly upon what they were *ad idem*;

(3) That the written instrument was intended to embody such matters;

(4) That it does not embody them.

All these points have to be proved affirmatively, and the onus of proof is unusually high. Moreover, where the relief, if granted, would destroy existing equitable property interests, the trustees are made defendants, and must seek to uphold the instrument as it stands, whether or not all the other parties wish it to be rectified. Nor can the trustees make valid admissions. To allow them to do so would be to promote fictitious actions, and to undermine the stability of property rights. In considering the evidence requisite in these cases we ought not to have in mind the standards and modes of proof usual in civil cases, but the criminal rules of evidence and methods of proof. The same essential elements are present in both. Where the prisoner pleads "Not Guilty" the Crown must prove affirmatively every fact necessary to his conviction, and he cannot make admissions to shorten the trial. All necessary facts must be proved affirmatively and strictly. And the onus of proof, and the presumption in the case of its inadequacy, lie the same way. The words used by Lord Chelmsford are almost word for word the same as those used in the summing-up of criminal cases: the highest degree of probability is not enough; there must be no fair and reasonable doubt.

But it is not necessary to establish an *enforceable* agreement concluded antecedently to the execution of the written instrument. What is necessary to prove is that the written instrument is an attempt to embody the concurrent intention of the parties existing at the moment of the execution of the instrument, unless a previous contract can be proved: *Shipley U. D. C.* v. *Bradford Corporation, supra*. Were this not so, the remedy would be altogether too much restricted. For example, there are certain sorts of corporation aggregate which cannot make a binding agreement at all except under seal. If, then, such a body makes an agreement under seal, and it is sought to rectify that agreement, it would be impossible to do so, if it were necessary to prove an earlier binding agreement.

In the case of *Constantinidi* v. *Ralli* [1935] Ch. 427, there appears to have been a most ingenious attempt to find a way round these strict and narrow limits. The attempt failed, and could not be made again, but the case is worth attention for the light it throws on the remedy in general. So far as material the facts were as follows. The wife brought a fund of about £25,000 into settlement, in which she took the first life interest. There were the usual trusts for the husband and the issue of that or any future marriage of the wife, all of which had failed, or must fail, since the husband was dead, and the wife, now aged well over fifty, had never had children. Finally, there was a general power to appoint the property by will in default of issue, and a trust in default of appointment for the wife's next of kin. In these circumstances the wife naturally wished to resume full ownership of as much of the £25,000 as possible. A writ was issued asking for rectification by inserting a general power to appoint by deed, immediately prior to the general power to appoint by will. If this power could have been inserted, the wife could have appointed the fund to herself absolutely, and so terminated the settlement by merging the life interest with the reversion expectant upon it. A statement of claim was put in, which said all there was to be said in support of the claim for rectification, which was not much. Down to this point the defendants were, of course, the trustees, and they put no defence in. The proceedings were then amended by "unearthing," as Eve, J., put it, a person who would have been one of the wife's next of kin if she had died at the date of the action, and adding that person as defendant. All parties then executed a conditional agreement to "compromise" the action, on terms that the wife should release her testamentary power to appoint the fund to the extent of £5,000 of it, so that that sum should go to the next of kin in any event, and that subject to that provision for them, the settlement should be amended by giving her the general power to appoint by deed for which she asked. It is to be observed that this arrangement was highly beneficial to the next of kin, since their interest in the fund, such as it was, was postponed to the general testamentary power of appointment, and so could easily be defeated altogether. The matter was brought before Mr. Justice Eve on a summons, supported by all parties, to confirm the deed of compromise. This confirmation would have entailed the appointment of the person added as defendant to represent the next of kin. The application was refused. The learned Judge pointed out that the next of kin of a living person are an unascertainable class, and that it did not follow that the person to be appointed as their representative would be one of them when the time came. It would therefore be improper to appoint such person, or anyone, to represent them. In any case, in view of the very frank and honest inadequacy of the facts alleged in the statement of claim, he thought that there was no reason at all to suppose that the action could succeed, and there was, therefore, no ground for "compromising" it. His Lordship's opinion of the facts must be respectfully supported by anyone that reads the report.

In spite of the failure of the application, the report will well repay careful study, since it shows clearly the difficulties attending upon a claim for rectification in cases where the rights of third parties are involved, even where there is no opposition among the parties on the record to the granting of the decree.

In a later article, I propose to consider in greater detail the application of the doctrine of rectification to marriage settlements, in relation to which it very often confronts the conveyancer.

Landlord and Tenant Notebook.

Removal of Fixtures and Damage to Freehold.

TRADE and domestic fixtures are removable during the term provided they can be removed without a degree of damage being occasioned to the freehold. The position is not often stated in that way; but it is worth emphasising, occasionally, that there is not merely a duty on a tenant to avoid undue damage when removing a fixture. The fixture is not legally a removable fixture at all unless it satisfies the condition indicated; which condition is, however, steadily becoming more easy to satisfy.

In *Mears* v. *Callender* [1901] 2 Ch. 388, Cozens-Hardy, J., commented on the modern tendency to enlarge the rights of tenants in respect of fixtures, and the tendency has not abated since. Degree of annexation loses importance to object of annexation; so some day a landlord may find it useful to be able to remind his tenant that whether or not the latter

meant to benefit the reversion, he cannot be allowed to injure it beyond a certain point. But the position of that point has, it will be seen, altered as well, and to the tenant's advantage. No case has actually been reported in which a fixture has actually been held to be irremovable on this ground, but there is ample authority for the proposition. Quite substantial fixtures have been held to be removable, such as machinery, e.g., in *Trappes* v. *Harter* (1833), 2 Cr. & M. 153; but the judgment carefully pointed out that it "could be removed without the slightest injury to the freehold."

Two years later, in *Avery* v. *Cheslyn* (1835), 3 Ad. & Ell. 75, an action for pulling down cornices affixed by a tenant and carefully and skilfully unscrewed by him, Coleridge, J., directed the jury that their verdict must depend on three matters: whether the cornices were ornamental, whether they were capable of removal without substantial injury, and whether they had been removed during the term. This direction was upheld by Lord Denman, C.J.

The position showed little change when Lord Cranworth gave judgment in *Ex parte Barclay, Re Gawan* (1855), 5 De G., M. & G. 402, a dispute as to certain ornamental and trade fixtures installed in licensed premises by the tenant, who had become bankrupt. His lordship said: "I wish to state that by 'fixtures' we understand such things as are ordinarily affixed to the freehold for the convenience of the occupier, and may be removed without material injury to the freehold, such will be machinery, using a generic term, and, in houses, grates, cupboards and other like things."

Assuming that "substantial injury" and "material injury" are convertible terms, the first sign of relaxation of the requirements came in *Martin* v. *Roe* (1857), 7 El. & Bl. 237; not a landlord and tenant case, but one in which executors of a rector claimed to be entitled to frames of hothouses, erected on two-foot walls, by the deceased. The same principle applies as between landlord and tenant, and Lord Campbell, C.J., expressed it as follows: "We treat the removal by the plaintiffs as having been in fact effected without injury to the freehold. In all cases of this kind injury to the freehold must be spoken of with less than literal strictness. A screw or a nail can scarcely be drawn without some attrition; and, when all the harm done is that which is unavoidable to the mortar left on the brick walls, this is so trifling that the law, which is reasonable, will regard it as none . . . Upon any other criterion the principle the criterion of injury to the freehold would be idle."

Possibly the judgment of Kindersley, V.-C., in *Gibson* v. *Hammersmith & City Rly. Co.* (1862), 2 Dr. & Sm. 603, represents a slight check in the otherwise steady improvement of the tenant's position. After stating the requirements as to nature and as to time for removal, his lordship continued: "There was, however, the proviso that they could, as in this case [machinery on land compulsorily acquired] be removed without material injury to the freehold. I assume that if they could not be removed without material injury to the freehold, the tenant has no right to remove them at all."

But a noteworthy advance could be recorded when the House of Lords adjudicated upon the claims of High Peak District miners in *Wake* v. *Hall* (1883), 8 A.C. 195, to remove machinery, some of which was sunk well into the soil. Lord Blackburn, having pointed out the connection between the question whether an article was a fixture at all and the question whether it could be removed without injury to the freehold, said "though, the foundations being below the surface, they cannot be removed without some disturbance to the soil, it is, I think, impossible to hold that the amount of this disturbance is so great as to amount to a destruction of the land."

Destruction seems very different from substantial or material injury, and one cannot help wondering how land can be destroyed. The implication that the same test would be applied to a chattel affixed to a building is, no doubt, unsound, but, coming to modern times, it will be found that in the case of ornamental fixtures the test has undergone a corresponding modification. The most recent decision is *Spyer* v. *Phillipson* [1931] 2 Ch. 183, C.A. As regards the object of annexation in that case, there can be little doubt that the tenant, against whose executors the proceedings were brought, had not intended to benefit the reversion when he affixed some ornamental panelling to the walls and installed some chimney-pieces and fire-places: for the premises were a Portland Place flat, the term had but a few years to run, and the alleged fixtures were worth about £5,000. The question of the effect of removal having therefore been raised, Luxmoore, J., found that it was quite true that damage would be done to the plaster and the ceilings, and so on, and that when the fixtures were removed it would be necessary to replace some of them with skirting boards. Nevertheless he held that they were removable. But for the statement for the principle which one must be expected to be applied to-day one should turn to the judgment of Romer, L.J., upholding the decision: "So long as the article can be removed without doing *irreparable* damage to the demised premises I do not think that either the method of annexation or the degree of annexation or the quantum of damage that would be done to the article itself or to the demised premises by its removal has really any bearing upon the question of the tenant's rights to remove, except in so far as they throw light upon the question of the intention with which the chattel was affixed by him to the demised premises."

Our County Court Letter.

WARRANTY ON SALE OF MARE.

In *Wescott* v. *Bishop*, recently heard at Taunton County Court, the claim was for £25 1s. 3d. as damages for breach of warranty. The plaintiff had paid 43 guineas for a mare, which was warranted as a "quiet and good worker in all gears." The plaintiff found, however, that she was a jibber and a kicker, and after a veterinary surgeon had advised that she was not safe to work, she was sold for 25 guineas. The defendant's case was that he had bred the mare and had broken her in, and she had always behaved perfectly. Having been repurchased by the defendant, from a third party, the mare had since done all general farm work, without any trouble. His Honour Judge Wethered held that there had been no breach of warranty. The trouble had not necessarily arisen from ill-treatment, but from the mishandling by strangers of a highly strung animal. Judgment was given for the defendant, with costs.

PRIZE MONEY FOR VEGETABLES.

In a recent case at Darlington County Court (*McGovern* v. *Harrogate Club Chrysanthemum and Leek Society*) the claim was for £2 5s. as the prize money due for an exhibit of brussels sprouts. The latter had won the first prize, and the plaintiff's case was that they were shown exactly as they were taken from his garden. If they had been tampered with, someone had done so out of spite. The defence was that the plaintiff was disqualified, as it was found that sprout buttons fell off his plants, on their being shaken, without leaving a mark. They had therefore been attached, and had not grown naturally. His Honour Judge Gamon observed that the exhibits had been sealed in order to avoid malpractices. It appeared that someone had gone to the show with twenty-two sprout buttons in his pocket, and had inserted them in selected places in the stalks of two plants. The defendant was responsible, and there had been an attempt to claim the prize money by a fraudulent practice in order to deceive the committee. The plaintiff was not entitled to the prize money for brussels sprouts, but he was entitled to £2 2s. won by him in other classes. Judgment was given accordingly, without costs.

THE QUALITY OF WALLPAPER.

In the recent case of *Rench* v. *Stanley J. Holmes & Sons, Ltd.*, at Nottingham County Court, the claim was for the return of £30 18s. 9d., being the amount paid for rolls of wallpaper. The latter had been bought as a bargain line, but the plaintiff's case was that they were mostly unsaleable. The utmost value was £10, and the plaintiff was prepared to reduce his claim by that amount. The defendants' case was that they had offered to take the goods back, allowing full credit, and had even sent vans to collect the wallpaper. The plaintiff, however, had refused to return the goods, and was claiming the above amount on production of a few samples. The defendants accordingly required proof that the alleged defective stock came from them. At the suggestion of His Honour Judge Hildyard, K.C., the stock was inspected by an independent dealer, who offered to purchase it for a reduced price. It was held that the plaintiff had failed to produce evidence of the alleged loss on the purchase of job lots, and judgment was given for 30s., without costs.

LANDLORD'S LIABILITY FOR DEFECTIVE FLOOR.

In a recent case at the Liverpool Court of Passage (*Bailey* v. *Hoare*), the plaintiff was the tenant of a house, which had become damp through an accumulation of water outside the sitting room window. In May, 1936, a leg of a chair had gone through the floor, and the defendant was informed when he called for the rent, but he said he had no time to see to it. Shortly afterwards the plaintiff's wife was standing by the window, when she fell through the floor, and was consequently ill in bed for three months. The defendant's case was that he was never told of the state of the floor, and there had been no mention of damp. The presiding judge, Sir W. F. K. Taylor, K.C., held that the defendant was honest in his denial, but that he had forgotten the complaint. Judgment was given for the plaintiff for £15 and costs. Compare *Cunard* v. *Antifyre Ltd.* [1933] 1 K.B. 551, and a previous note entitled "Landlord's Liability for Defective Roof," 80 Sol. J. 694.

Obituary.

Sir E. K. ALLEN.

Sir Ernest King Allen, C.B.E., formerly Assistant Public Trustee, died at Woking, on Friday, 9th July, at the age of 72. He was called to the Bar by the Inner Temple in 1894. He applied to enter the Public Trustee Office when the Public Trustee Act was passed in 1906, and in 1907 he was appointed principal clerk. He was made a C.B.E. in 1918, and on his retirement in 1924 he received the honour of knighthood. Sir Ernest Allen was a director of the Royal Exchange Assurance (Law Courts Branch) and other companies.

Sir FRANCIS FLADGATE.

Sir Francis Fladgate, retired solicitor, formerly head of the firm of Messrs. Fladgate & Co., of Pall Mall, S.W., died on Monday, 12th July, in his 85th year. He was educated at Harrow, and in 1876 he was admitted a solicitor. He became solicitor to the Royal Commissioners for the Exhibition of 1851. In 1905–6 he was vice-president of The Law Society, and in 1911 he was made M.V.O. He retired from practice in 1920, and received the honour of knighthood in 1932. Sir Francis Fladgate was a director of the Law Debenture Corporation and the Phœnix Insurance Company, and also chairman of the London Power Company and the Charing Cross, West-End and City Electric Supply Company.

Mr. H. E. B. RACKHAM.

Mr. Hanworth Edmund Burr Rackham, retired solicitor, formerly of Norwich, died at Kensington, on Tuesday, 13th July, in his 81st year.

Reviews.

Palmer's Company Precedents. Part II—Winding Up Forms and Practice. Fifteenth Edition. 1937. By Alfred F. Topham, LL.M., Bencher of Lincoln's Inn, one of His Majesty's Counsel, and A. M. R. Topham, B.A., of Lincoln's Inn, Barrister-at-Law. Royal 8vo. pp. cxlix and (with Index) 1,415. London: Stevens & Sons, Ltd. £3 3s. net.

"Palmer's Company Precedents" are indispensable to every company lawyer, and a new edition of the volume relating to winding up is to be welcomed. The second one since the monumental legislation of 1928 and 1929, the editors have taken the opportunity of making a partial re-arrangement of the book so as to make for ease of reference and clarity.

It is now easier than it formerly was to get at questions relating to a voluntary liquidation and to keep them separate from questions relating to compulsory liquidation. The tendency probably has been, in the past, to put the accent on compulsory liquidation, whereas, of course, voluntary liquidations are in a tremendous majority and require just as much, and not infrequently more, skilled guidance as a compulsory liquidation. Voluntary liquidation is dealt with in this new volume at much greater length, an improvement which should meet with general approval.

It is a little surprising to find no reference in this volume to *Re Barry & Staines Linoleum Limited* [1934] Ch. 227, which was a case of a petition presented under s. 372 of the Companies Act, 1929, by a person seeking relief from liability incurred by him in respect of his having acted as a director of the company and received remuneration as a director after he had ceased to be such, by reason of having failed to obtain his share qualification within due time.

True the company concerned was not in liquidation, and true again that the liability of an individual director to penalties under s. 141 may not be of much importance in a winding up, but the receipt by persons who are not directors, though treated as such, of remuneration as directors not infrequently gives rise to questions in liquidation, and the observations of Lord Maugham in that case cannot be regarded as irrelevant to a consideration of that question.

Form 956—a summons by a dissenting shareholder under s. 155 of the Companies Act, 1929, referred to in the body of the summons as s. 55—requires amendment to make it clear; at present it uses the expression "the said company" to refer to two different companies, namely, the transferor and transferee companies as defined by the section.

Books Received.

County Court Practice made Easy or Debt Collection Simplified. By a Solicitor. Eighth Edition, 1937. Crown 8vo. pp. x and 145. London: Sir Isaac Pitman & Sons, Ltd. 5s. net.

The Conveyancer and Property Lawyer. Vol. I (New Series). No. 4. June, 1937. London: Sweet & Maxwell, Ltd. 6s. net.

Formation and Management of a Private Company. By F. D. Head, B.A., of Lincoln's Inn, Barrister-at-Law. Third Edition, 1937. Demy 8vo. pp. (with Index) 230. London: Sir Isaac Pitman & Sons, Ltd. 7s. 6d. net.

[All books acknowledged or reviewed can be obtained through The Solicitors' Law Stationery Society, Limited, London, Liverpool and Birmingham.]

The last of the second series of Coronation tours to places of historic interest, which were arranged in aid of King Edward's Hospital Fund for London, will take place on Wednesday, 21st July, at 2.30 p.m., when Mr. Walter G. Bell, F.S.A., F.R.A.S., will conduct a tour of the Tower of London. Further particulars may be obtained from the Secretary, King Edward's Hospital Fund for London, 10, Old Jewry, E.C.2.

To-day and Yesterday.

LEGAL CALENDAR.

12 JULY.—One evening in 1860 two workmen living at Nettlebed, in Oxfordshire, were going home from work when one of them asked the other to show him the old dried-up Roman well hidden in the middle of Ipsden Wood. They went accordingly and threw in a few stones, when, from its depth of over a hundred and thirty feet, they thought they heard a cry. Investigations were made and eventually a 13-months-old baby was drawn up out of the darkness where it must have been for forty hours. The sequel was that on the 12th July, at the Oxford Assizes, its mother was convicted of attempted murder and condemned to death, though the sentence was later commuted to five years' penal servitude. In court the resurrected infant looked fat and healthy.

13 JULY.—A novel excuse for sheep stealing was put before Mr. Baron Parke at the York Assizes on the 13th July, 1831, when Daniel Simpson, a Wesleyan Methodist local preacher, pleaded guilty to having appropriated a total of twenty-two ewes, twenty-eight lambs and twenty-three sheep. Addressing the judge, he said: "My lord, I solemnly avow that I took the sheep, not with a view of enriching myself, not to gratify my own sensual appetite, as it is well known to my neighbours that I have not been drunk for twenty years. I took them out of the love which I bore my creditors and I leave myself in the hands of my judge." At the hands of his judge he got transportation for life.

14 JULY.—If Lord Hewart, C.J., could stand beside his twelfth-century predecessor, Richard de Luci, ten years Chief Justiciar of Henry II, we would see embodied the passing of seven centuries. We can imagine the present Chief sitting like the earlier judge to commit riotous Londoners to prison, or competently bearing the responsibility of preparing the Constitutions of Clarendon. But can we picture him in one and the same year besieging a rebellious Leicester and destroying its fortifications, stemming a Scottish raid and ravaging Lothian, and finally routing a Flemish invasion of Suffolk? No, the judicial robe no longer hides a breast plate and a girt sword. Yet de Luci's end was peaceful. Retiring as a religious to an abbey which he had founded near Erith, he died piously on the 14th July, 1179.

15 JULY.—On the 15th July, 1870, Evan and Hannah Jacobs were tried at Carmarthen for the manslaughter of their daughter Sarah, who had attained some celebrity as the "Welsh fasting girl." It had been pretended that she could live without food and, dressed as a bride, she had lain for several months on a bed, while crowds of curious persons came to gaze at her. Then some of the staff of Guy's Hospital came to watch and investigate, and during their closer supervision the girl died, the parents to avoid detection of their fraud having given her no food at all. They were convicted and Hannen, J., sent them to hard labour.

16 JULY.—The end of the Napoleonic Wars saw an ex-service problem. On the 16th July, 1815, "five of those importunate beggars who infest the town in the character of wounded sailors" were indicted at the Westminster Sessions "for a most outrageous riot in Bond Street." They had been molesting the passers-by, and when the police had tried to disperse them, they had lifted their crutches and commenced a violent assault on the officers, throwing the whole neighbourhood into confusion. Though all were dressed as sailors, it was proved that some had never been in the Navy at all. All were found guilty.

17 JULY.—On the 17th July, 1856, John Murdock, a young pickpocket of twenty, was tried at Lewes Assizes for the murder of James Welland, the old keeper of the gaol at Hastings. He had made his escape and it appeared clear enough that he had strangled the poor fellow from behind. The defence was that death was due to apoplexy brought on by excitement at seeing a prisoner get away. Murdock was condemned to death.

18 JULY.—On the 18th July, 1861, Edwin James, a brilliant and successful, but extravagant and unscrupulous member of the Inner Temple, was disbarred.

THE WEEK'S PERSONALITY.

The rise and fall of Edwin James is one of the strangest stories in the history of the law. He was the son of a solicitor, but his aspirations were at first theatrical. However, parental pleading brought him back to the law, and he was called to the Bar where his father's profession assured him a good start. Though some said he had the appearance of a pugilist, he had a fine presence as well as a forceful manner, and his abilities improved his opportunities. He became one of the foremost jury advocates of his day, took silk, entered Parliament, was appointed Recorder of Brighton, and seemed well on the way to the most glittering prizes of the profession, a judgeship at least being secure. But though his earnings ran into several thousands, his extravagances swallowed them all up and much more besides, and the weight of his liabilities which at last were said to amount to £100,000, dragged him to a sensational fall. The cause of his final disgrace was a nefarious financial transaction in which he had victimised the young Earl of Yarborough to the extent of several thousands of pounds. After an enquiry by the Benchers of his Inn, he was disbarred. An attempt to practice in America failed, and in a venture as a "matrimonial adviser" in London he gained no credit. He died still under a cloud.

"WHAT IS A RING?"

Were judges still obliged to be of the order of the coif, Swift, J., would never have asked, as he did in a recent case: "What is a ring?" For the serjeants knew all about rings. As late as Queen Victoria's day, the Sovereign, the Lord Chancellor, the judges and other august persons, to the number of about twenty-eight, were entitled to receive gold rings from each serjeant on the day of his appointment. In earlier and more spacious days, practically the whole of the peerage and the episcopate had been recipients. The value of the gifts, however, varied. Thus it was prescribed that the Sovereign's should be worth 26s. 8d. and those of the Chief Justice's 20s. A batch of newly appointed serjeants had an uncomfortable quarter of an hour in 1669, when Chief Justice Kelynge publicly rebuked them for having presented rings two shillings under the proper value, adding that he spoke "not expecting a recompense, but that it might not be drawn into a precedent and that the young gentlemen there might take notice of it." This little scene is enshrined in the contemporary law reports.

ERMINED EASE OR LABOUR?

At the Lord Mayor's banquet to the judges recently, their host in proposing their health expressed admiration of the ripe old age to which they attained, adding that he supposed their "nice restful lives" were the cause of it, but the Lord Chief Justice, responding, repudiated "the common fallacy that judges live long because they have a soft job." That fallacy was never better expressed than by a charwoman who once appeared in the witness-box before Judge Crawford. "Do you work?" he had occasion to ask her, to which she answered: "No." The judge then suggested to her that it was better than being idle, but she indignantly retorted: "Why should I work when I'm sixty?" "Well," replied the indefatigable veteran on the Bench, "I am much older than sixty and I work very hard." With a withering look of contempt, she said: "Yours is a sitting down job." I hope she would have been convinced of the error of her view if she could have heard Lord Hewart explain that judges live long because before they get to that position "they have gone through a hard mill and if they can survive that mill they can survive a good deal else."

Notes of Cases.

Judicial Committee of the Privy Council.

Armstrong and Another *v.* Estate Duty Commissioner.

Lord Maugham, Sir Lancelot Sanderson and Sir Sidney Rowlatt. 27th May, 1937.

HONG KONG—ESTATE DUTY—PROVISION IN WILL FOR WIDOW'S ANNUITY—NO PART OF RESIDUARY ESTATE SPECIFICALLY CHARGED—WHETHER WILL A "SETTLEMENT"—ESTATE DUTY ORDINANCE, 1932, s. 25.

Appeal from a decision of the Full Court of the Supreme Court of Hong Kong, affirming a judgment of MacGregor, J. (then Chief Justice), dismissing a petition by the appellants in appeal against a certificate by the respondent commissioner that estate duty was payable.

The will of a testator who died in 1926 provided for an annuity, clear of death duties and income tax, to his widow during her life. The trustees were at liberty to set aside out of the residuary estate investments representing the capital fund necessary to produce the annuity; and if that were done the annuity was to be charged wholly on the investments in question. Estate duty was paid on the whole estate in 1926. No fund was set aside to meet the annuity, and the widow having died in 1935, it ceased. By s. 4 of the Hong Kong Estate Duty Ordinance, 1932, estate duty is imposed on the principal value of property passing on death. By s. 5 (1) (*b*) such property includes property in which the deceased or any other had an interest ceasing on the death of the deceased to the extent to which a benefit accrues by reason of the cesser. By s. 25 (1), if estate duty has already been paid on any settled property since the date of the settlement on the death of one of the parties to a marriage, no estate duty is payable on the death of the other party unless the latter had at any time been competent to dispose of the property. By s. 25 (2) "settlement" means any deed, will, agreement for a settlement or other instrument by which any property stands for the time being limited to or in trust for any one by way of succession. The respondent, claiming that, on the widow's death, estate duty became payable under s. 5 (1) on the ceasing of the annuity, made an assessment accordingly.

LORD MAUGHAM, giving the judgment of the Board, said that the widow had at no time been competent to dispose of the property, and that the exemption given by s. 25 (1) would apply if there could be shown to be "settled" property within that section. The appellants contended that the will constituted a settlement, inasmuch as a "slice" of the testator's property came within the words "any property . . . or interest in any property" in s. 25 (2). They relied first on *Attorney-General* v. *Owen* [1899] 2 Q.B. 253, in which much reliance had been placed on *In re Mundy & Roper's Contract* [1899] 1 Ch. 275, a decision on the meaning of "settlement" in the Settled Land Act. Those decisions were followed by the Court of Appeal in *In re Campbell* [1902] 1 K.B. 113; where Stirling, L.J., however, said that the decision did not conclude the case of a simple gift of an annuity in general terms without trust for payment out of a particular payment. An observation to similar effect had been made by Sargant, J., in *In re Waller* [1916] 1 Ch. 153; *Attorney-General* v. *Watson* [1917] 2 K.B. 427, was also relied on. All the decisions cited dealt with cases where a fund had been appropriated exclusively to the annuity. Also, all the judges had plainly relied on the circumstance that the Finance Act, 1894, defined a settlement by reference to the Settled Land Act, an Act which the House of Lords in *Bruce* v. *Ailesbury* [1892] A.C. 356, held required a generous interpretation. A dominion or colonial taxing statute must be interpreted simply on its own true construction (*Attorney-General for Ontario* v. *Perry* [1934] A.C. 477, at p. 487). Section 5 (1) of the Ordinance undoubtedly applied here. The difficulty arose in considering s. 25 (2) untrammelled by authority. It was not enough to show that there had been a species of charge on the testator's property for the widow's benefit. Construing the Ordinance as it stood, their lordships came to the conclusion that the words "any property . . ." coupled with the words "stands limited" in s. 25 (2) referred to definite property which could be precisely defined. The appeal must be dismissed.

COUNSEL: *F. D. Morton*, K.C., and *W. M. Hunt*, for the appellants; *A. M. Latter*, K.C., and *R. P. Hills*, for the respondent.

SOLICITORS: *Gibson & Weldon*, agents for *Deacons*, Hong Kong; *Burchells*.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Court of Appeal.

Taylor *v.* Taylor.

Greer, Slesser and Scott, L.JJ. 12th July, 1937.

HUSBAND AND WIFE—SEPARATION AGREEMENT—WEEKLY PAYMENTS STIPULATED—IRREGULAR PAYMENTS MADE WITHOUT DEDUCTION OF INCOME TAX—WIFE'S CLAIM FOR ARREARS—HUSBAND'S RIGHT TO CLAIM TO SET-OFF NOTIONAL DEDUCTION OF TAX IN RESPECT OF PREVIOUS PAYMENTS.

Appeal from a decision of Mackinnon, J. (81 SOL. J. 257).

By a separation agreement between a husband and wife it was stipulated that as from the 12th August, 1926, he should pay her £2 a week, payable every Thursday, unless his earnings reached £25 a month, when he should pay her £3 a week. He made payments at irregular intervals and in uncertain sums. In some years these fell short of the amounts due for them and in others they exceeded them. In making the payments the husband deducted no income tax. The wife now commenced an action to recover £156 10s., being the outstanding balance on the total amount due. Mackinnon, J., held that the husband was not entitled to set-off the income tax against the unpaid balance.

GREER, L.J., allowing the husband's appeal, said that he was entitled to deduct income tax as against the amount claimed. It did not matter whether the payments were weekly or yearly. The judgment would be reduced to £116, and the appeal allowed, but without costs.

SLESSER and SCOTT, L.JJ., agreed.

COUNSEL: *King*, K.C., and *H. Maddocks*; *I. Jacob*.

SOLICITORS: *Montagu's and Cox & Cardale*; *Jacques, Asquith & Jacques*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re **Borwick; Will Trusts; Holland *v.* Woodman.**

Simonds, J. 8th July, 1937.

INTERNATIONAL LAW—DOMICIL—MARRIED WOMAN—SURVIVAL OF HUSBAND BY TWO MONTHS—EFFECT ON DOMICIL.

Lord Borwick died on the 28th January, 1936, and his wife on the 1st April, 1936. The marriage had taken place in 1872. Lady Borwick's birthplace was India. All her married life she had lived in England. She had purchased a house in Warwickshire and also occupied a residence in London. After her husband's death, in contemplation of giving up the latter, she had made inquiries for a suitable flat. The question having arisen whether Lord Borwick was at the time of his death domiciled in England or France, the court held that his domicil was English. But, inasmuch as there might be an appeal from this decision, Lady Borwick's executors now asked that they might be at liberty to distribute her estate on the footing that she was domiciled in England at the date of her death.

SIMONDS, J., in giving judgment, said that by a fiction of law the husband's domicil was imputed to the wife and the question was whether, assuming that this husband had a French domicil, his wife after his death abandoned it for an English one. She had always lived in England and intended to continue so to live, and nothing precluded the court from holding that at her death her domicil was English.

COUNSEL: *Roxburgh*, K.C., and *Andrewes Uthwatt*; *Morton*, K.C., and *R. W. Turnbull*; *Krusin*; *Radcliffe*, K.C., and *G. D. Johnston*.

SOLICITORS: *Tamplin, Joseph, Ponsonby, Ryde & Flux*; *May, May & Deacon*; *Fladgate & Co.*; *Farrer & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Queen Anne's Bounty *v.* **Tithe Redemption Commission.**

Bennett, J. 9th July, 1937.

ECCLESIASTICAL LAW—TITHE RENT-CHARGE—RECOVERY OF "ARREARS"—TITHE ACT, 1936 (26 Geo. 5 & 1 Edw. 8, c. 43), s. 20.

The plaintiffs were, at all material times, owners of the tithe-rent charge now in question issuing out of certain land in Herefordshire. On the 1st April, 1934, £10 0s. 8d., being one and a half years' arrears, was due and the plaintiffs having applied to the county court under the Tithe Act, 1891, s. 2, for an order for recovery an order was made in November under which a receiver was appointed for the purpose of recovering that sum, together with 7s. 6d. in respect of costs. On the 1st April, 1936, a further sum of £12 14s. 8d. was due in respect of arrears for the subsequent two years and a similar order was made for the recovery of this sum and 7s. 6d. costs, on the 21st October, 1936 (i.e. after the day appointed by the Tithe Act, 1936, for the extinguishment of tithe rent-charge, the 2nd October, 1936). In April, 1936, the plaintiffs gave notices to the Tithe Redemption Commission and to the owner of the land under s. 20 (3) of the Act of 1936, giving particulars of these arrears which they claimed to be recoverable. The Commission replied that the sums in question were not "arrears" within the section and that no payment by them to the plaintiffs could be expected in respect of them. The plaintiffs now sought a declaration that they were "arrears."

BENNETT, J., in giving judgment, said that "arrears" was not a term of art, but was commonly used to denote overdue payments. There was no grammatical difficulty in referring the word to sums due and not to rights or liabilities in respect of sums. His lordship observed, however, that as the two amounts for costs were not sums due on account of the tithe rent-charge, the question as to them must be decided against the plaintiff. Having considered the Tithe Act, 1936, and the Tithe Act, 1891, s. 2, his lordship said that s. 20 of the Act of 1936 was meant to include not only sums in respect of which no order had been made, but also sums in respect of which an order had been made. These sums, with the exception of the costs, were "arrears" within the section.

COUNSEL: *Sir William Jowitt*, K.C., *Sandlands*, K.C., and *A. Armstrong*; *The Attorney-General* (Sir Donald Somervell, K.C.), *The Solicitor General* (Sir Terence O'Connor, K.C.), and *Hubert Hull*; *R. Goff*.

SOLICITORS: *Solicitor to Queen Anne's Bounty*; *Solicitor to the Ministry of Agriculture and Fisheries*; *Harold Potter*, for *Abell, Jackson & Reece*, of Worcester.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Dingley *v.* **MacNulty (Inspector of Taxes).**

Lawrence, J. 6th April, 1937.

REVENUE—INCOME TAX—BENEVOLENT FUND—DIRECTORSHIP OF—WHETHER OFFICE OF PROFIT—INCOME TAX ACT, 1918 (8 & 9 Geo. 5, c. 40), Sched. E.

Appeal by case stated from a decision of the Commissioners for the Special Purposes of the Income Tax Acts.

An assessment was made on the appellant in the sum of £58 for the year ending the 5th April, 1936, under Sched. E to the Income Tax Act, 1918, in respect of money received by him as a director of the Customs Annuity & Benevolent Fund Incorporated. That fund was established in 1816 by Act of Parliament for the benefit and relief of relatives of employees in the Department of Customs, and was constituted a body corporate by statute in 1896. The appellant was one of nine directors appointed to manage the affairs of the fund. During the year in question he attended seventy-seven meetings of directors for which, in all, he received £77 14s. His duties included attending once a week, and at other times as required, at the Custom House to go through papers and sign cheques; visiting a timber business carried on by the fund; and inspecting properties in connection with proposed advances by the fund on mortgage. It was contended by the appellant *inter alia* that the office of director of the fund was not one remuneration for which was assessable under Sched. E. The Commissioners held that it was.

LAWRENCE, J., said that there was, in his opinion, no substance in the contention that the office of a director of the fund was not an office of profit under Sched. E. The rules of the fund provided that the directors might make reasonable allowances to persons assisting in the management of the fund, and that category of persons, in his opinion, included a director. Allowances or other remuneration to the directors were to be submitted for approval by a general meeting of the subscribers, and that had no doubt been done here, the appellant receiving the £77 14s. in pursuance of the rules. He (his lordship) accordingly held that the appellant, as director of the fund, was the holder of an office of profit within Sched. E. It had been agreed between the directors of the fund and the revenue authorities in 1932 that twenty-five per cent. of the sums received by directors of the fund for their services to it should be regarded as wholly and necessarily incurred in the performance of their office, and he (his lordship) accordingly held that that sum was deductible. The assessment would be upheld.

COUNSEL: *The Appellant appeared in person*; *R. P. Hills*, for the Crown.

SOLICITOR: *The Solicitor of Inland Revenue.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Long (Inspector of Taxes) *v.* **Belfield Poultry Products Ltd. Thornber Bros. Ltd.** *v.* **Macinnes (Inspector of Taxes).**

Lawrence, J. 11th May, 1937.

REVENUE—INCOME TAX—POULTRY FARMING AND BREEDING—WHETHER ARISING FROM OCCUPATION OF LAND—INCOME TAX ACT, 1918 (8 & 9 Geo. 5, c. 40), Sched. B.

Appeals by case stated from decisions of the Commissioners for the special and general purposes of the Income Tax Acts respectively.

In the first case, the appellant company appealed against assessments to income tax for the years 1929-30, 1930-31, 1931-32, 1932-33, 1933-34 and 1934-35, under Sched. D to the Income Tax Act, 1918, in respect of profits which, in the view of the assessing authorities, were not covered by the assessments in the sum of £400 made on the company under Sched B. for those years in respect of profits arising from the occupation of land. Besides the ordinary operations of poultry farming, the land was used for rearing pedigree cockerels, which was the chief purpose. The mature cockerels bred by the company on the land were sent out to certain farmers to be mated with their hens as selected by the company's experts, the company charging no fees for the use of its cockerels. Eggs fertilised by the company's cockerels were bought by the company and hatched in the company's

incubators. More than a million eggs fertilised by the company's cockerels were dealt with annually in the hatchery. No eggs were bought for re-sale as eggs. The great majority of the resulting chicks were sold as day-old chicks, the land consequently not being used in connection with them. One-third of the sale price of every 100 chicks was paid to the farmers as the price of every 100 eggs bought. Some of the chicks were retained to be reared on the company's land and in turn to be despatched to the farmers as breeding stock. Evidence was given that an ample stretch of land was essential to make the cockerels virile. It was contended for the company that the fundamental purpose of their undertaking was to produce birds of the best possible strains, and that the occupation of the land was indispensable for the essential virility of the cockerels; that the company's activities as a whole did not constitute a trade distinct from the occupation of land; and that the whole of the profits arose from occupation of the land and were covered by the assessment under Sched. B. The Crown contended *inter alia* that the company carried on in addition to the trade of a poultry farmer and breeder also that of hatching out eggs produced on other persons' land, and that the profits of that trade were not derived from the use of the company's land as soil but from a trade distinct from occupation of land. The Commissioners held that the whole of the activities fell within the description of husbandry and were assessable under Sched. B on that footing, and they reduced the assessments accordingly.

In the second case the appellant company appealed against assessments to income tax under Sched. D, Case I, for the years 1933-34 and 1934-35 in respect of their profits as poultry dealers and accessory manufacturers. They admitted liability to be assessed under Sched. D in respect of the profits arising from manufacture of poultry appliances, etc., but contended that the profits arising from the breeding of and dealing in poultry were assessable under Sched. B as arising from the occupation of land. The company's object was the production of a hardy type of cockerel and pullet as desired by their farmer customers. In order to provide hens producing a great number of eggs, the company had to sire them with hardy and virile cockerels. They kept birds of that quality on their land and also supplied to approved farmers eggs laid by hens which were known to possess the desired quality. Those eggs were hatched out by the approved farmers and the progeny reared. Out of the progeny the farmer selected the best males to mate with his hens. The resulting eggs were acquired by the company, and the chickens resulting were sold by them. The chickens hatched in the company's incubators were mostly sold as day-old chicks. Those not so sold either became part of the company's breeding stock or were sold in due course. The company contended, *inter alia*, that the whole purpose of its occupation of the land was production of high-class birds, and that the occupation of land was essential to the achievement of that purpose; and that their profits from the hatching and rearing of birds were exhaustively taxed under Sched. B. The Crown contended, *inter alia*, that the company's profits from the sale of chickens, in so far as they arose from eggs not produced on the company's land, arose from the use of the land as space and not as soil, and therefore did not arise from the occupation of land within Sched. B. The Commissioners upheld the assessments.

LAWRENCE, J., said that in the first case the Commissioners had found that the main purpose of the use of the land was the rearing of cockerels, and that the buying and hatching of eggs and the selling of day-old chicks took their place in relation to a complete circular process, the eggs bought all having been fertilised by cockerels from the company's land; that the primary and immediate purpose of the occupation of the land was the rearing of virile cockerels; that the occupation of the land was essential for that purpose. The Attorney-General contended that *Malcolm* v. *Lockhart* [1919] A.C. 463, applied to the present case, and that this branch of the company's business was as much a separate operation unconnected with the occupation of land as that of a cheese factory in dealing with the milk of a dairy farm or that of a butcher's shop dealing with the beasts of a cattle farm (*cf.* per Scrutton, L.J., in *Back* v. *Daniels* [1925] 1 K.B. 526, at p. 544). The Commissioners had considered and decided whether the profits in question were so closely connected with the occupation of land as to fall within Sched. B. In his (his lordship's) opinion, that was the proper question for them to consider. There was ample evidence for their finding. The illustrations given by Scrutton, L.J., in *Back* v. *Daniels*, *supra*, of separate and distinct operations were very different from the hatching of chickens. The profits arising from the company's poultry business did not cease to arise from the occupation of the land because the chickens were unable to enjoy the fruits of the land during their early days, any more than did the profits of a farmer who reared calves for sale. In the second case, the facts were similar to but not the same as those in the first. Here, instead of sending out cockerels, the appellants sent out eggs to be hatched out by the approved farmers. It was open to the Commissioners on such facts to find that the connection between the occupation of the land and the realisation of the profits of hatching out the eggs in that manner was insufficient to bring the profits within Sched. B. The appeals must be dismissed.

COUNSEL: *The Solicitor-General* (Sir Terence O'Connor, K.C.), and *R. P. Hills*, for the Crown in both cases; *Cyril King*, K.C., and *Frederick Grant*, for Belfield Poultry Products Ltd.; *Cyril King*, K.C., and *F. N. Bucher*, for Thornber Bros. Ltd.

SOLICITORS: *Solicitor of Inland Revenue*; *Wade & Davies*, Dunmow; *Clarkson & Thomas*, Halifax.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Davies & Another *v.* Hosken.

Porter, J. 28th May, 1937.

INSURANCE—SOLICITOR—POLICY AGAINST CLAIMS ARISING FROM "NEGLECT, OMISSION OR ERROR"—FRAUD BY SOLICITOR'S EMPLOYEE—WHETHER COVERED BY POLICY.

Action tried by Porter, J.

By an insurance policy the defendant and other Lloyd's underwriters agreed to indemnify the plaintiffs up to a sum not exceeding £1,500 against loss arising from any claim which might be made against them by reason, *inter alia*, of any neglect, omission, or error committed or alleged to have been committed on the part of the plaintiffs or any person employed by the plaintiffs in or about the conduct of any business conducted by or on behalf of the plaintiffs in their professional capacity as solicitors. During the currency of the policy certain clients of the plaintiffs handed one of their employees sums of money for investment on mortgages, but he fraudulently used the money for his own purposes. The plaintiffs had to meet claims from the clients, which they compromised for a total sum of £2,552 10s. They then claimed to be indemnified under their policy to the extent of £1,500. The underwriters refused to pay, on the ground that the loss suffered by the plaintiffs was not covered by the policy, the claim having been made in respect of a fraud and not of negligence. It was contended for the plaintiffs that they had been negligent in not exercising due supervision over their clerk, and that that was a "neglect or omission" which was covered by the policy; that the claim against them by their clients was based on the fact that they had failed to hand over the appropriate securities to the clients, and that that was an "omission" within the meaning of the policy; that the "loss" referred to in the policy covered any claim which was properly made and properly paid; and that the words "any neglect, omission or error" were wide enough to cover fraudulent as well as innocent acts. It was contended for the defendants that the loss was not within the policy; that to be

protected in the present circumstances the plaintiffs should have taken out a policy covering the fidelity and honesty of their servants; that the policy would not cover criminal acts by the plaintiffs themselves, for no one might take advantage of his own wrong, and the words did not cover criminal acts by their servants; and that the acts contemplated were "neglect, omission or error" in professional conduct, not in fraudulent conduct of the insured, and the acts must be accidental and unintentional.

PORTER, J., said that the clerk clearly had authority to receive money. The policy dealt with leaving undone things which ought to have been done rather than with doing things which ought not to have been done. In his opinion, the clerk's fraud was not covered by the policy. Scrutton, L.J.'s view expressed in *Haseldine* v. *Hosken* [1933] 1 K.B. 822, at p. 833, that the commission of a criminal act, knowing what the act was that was being committed, did not come within the words "neglect, omission or error," would have been conclusive except that the act was that of a servant and not of the insured. But in his (his lordship's) view there was no difference in principle whether the act was that of the insured or of the insured's servant. The claim failed.

COUNSEL: *H. D. Samuels*, K.C., and *Frank Soskice*, for the plaintiffs; *Miller*, K.C., and *W. L. McNair*, for the defendant.

SOLICITORS: *Cropley Davies & Son; Hair & Co.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Philippson *v.* **Imperial Airways Ltd.**

Porter, J. 8th June, 1937.

CARRIAGE BY AIR—CLAIM BY CONSIGNOR FOR LOSS OF GOODS—INTERNATIONAL CARRIAGE—CONVENTION OF WARSAW—CONTRACT MADE IN ENGLAND—MEANING OF "HIGH CONTRACTING PARTY"—CARRIAGE BY AIR ACT, 1932 (22 & 23 Geo. 5, c. 36), s. 1 (2); Sched. I.

Action tried by Porter, J.

The plaintiffs, a Brussels firm, had handed to the defendants, Imperial Airways, Limited, for carriage from London to Brussels, a box containing gold coins on the terms of a consignment note. The box and its contents disappeared at Croydon Aerodrome as the result of theft, and the plaintiffs brought this action to recover the sum of £10,600 and interest in respect of the loss. The substantial question for decision was whether the carriage of the gold was an international carriage within the meaning of the contract of consignment between the parties. The consignment note comprising the contract provided *inter alia* that the general conditions of carriage of goods based on the Convention of Warsaw, 1929, were applicable to both internal and international carriage. In order to implement her ratification of the Convention, Great Britain had already passed the Carriage by Air Act, 1932, whereby the convention was given the force of law, and which provides that His Majesty may by order in council from time to time certify who are the high contracting parties to the convention, and that any such order shall be conclusive evidence of the matters so certified. Those orders in council were not necessarily made at dates which insured that states ratifying or acceding to the convention should become high contracting parties under the English Act of Parliament at the time at which they themselves became bound, but only at such later times as were convenient for the making of an order in council. Belgium was never "certified" under s. 1 (2) of the Act at any material time.

PORTER, J., said that the convention applied only to international carriage for the purposes of this case where the carriage was between the territories of one high contracting party and another. It was contended that under the Act carriage between Great Britain and Belgium in March, 1935, was not international carriage. The liability of the carrier, and its limitations as found in the convention, might be compendiously described as a sweeping away of any common law liability and the substitution of a general statutory liability for all loss, subject to certain limitations. International carriage of goods as referred to in the consignment contract, was said to include all carriage by air between places within the territories of two high contracting parties to the Convention of Warsaw. In that definition "includes" in his (his lordship's) opinion meant that such carriage was international to the exclusion of all other carriage. In his opinion, "high contracting parties" as used in the convention meant all the parties originally signatories, together with those who adhered, as and when they adhered. To draw a subtle difference between high contracting parties to the convention and "high contracting parties" as used in the agreement was too fine a distinction. But he had to decide what meaning the words bore in a contract made in England for the carriage of goods from London to Brussels, and according to our system to be determined according to English law. The English Act came into force in 1933. The contract was made in 1935. In an English contract in March, 1935, it then and in those circumstances meant high contracting parties as defined in the English Act, and was confined to those parties declared by order in council to be high contracting parties to the convention. Accordingly, this carriage was not international, the carrier was protected by his terms, and the action must fail.

COUNSEL: *H. U. Willink*, K.C. and *W. L. McNair*, for the plaintiffs; *A. T. Miller*, K.C., and *H. G. Robertson*, for the defendants.

SOLICITORS: *Ince, Roscoe, Wilson & Glover; Beaumont and Son.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Falmouth (Well Lane, etc.) Clearance Order, 1936 (Appeal of Halse).

Swift, J. 15th June, 1937.

HOUSING—CLEARANCE ORDER—UNFITNESS FOR HUMAN HABITATION—MATERIAL BEFORE LOCAL AUTHORITY OR MINISTER—WHETHER MINISTER OBLIGED TO HEAR EVIDENCE—HOUSING ACT, 1930 (20 & 21 Geo. 5, c. 39).

Appeal under s. 11 of the Housing Act, 1930.

In May, 1936, Falmouth Corporation made a clearance order relating *inter alia* to premises owned by the appellant. The appellant, having objected to the order, was served with notice of the principal grounds on which the corporation were satisfied that the premises were unfit for human habitation. In August, the Minister of Health caused a public local enquiry into the matter to be held, at which the appellant was represented and stated his objections. The Minister confirmed the order. The appellant contended that there was no evidence before the Minister to justify him in confirming the order, and that it should be quashed as being injurious to him (the owner).

SWIFT, J., said that s. 11 gave a right of appeal in such cases on either or both of two grounds only: (1) that the order was not within the powers given by the Act; (2) that a requirement of the Act had not been complied with. The duty of a local authority with regard to excluding a building from a clearance area must depend on what had been proved to their satisfaction. They had power to exclude buildings which they did not think merited the condemnation which had fallen on the rest of the houses in the area. It was never intended by s. 1 of the Act that there should be an application to some court to say the local authority had done something wrong because, in the opinion of experts advising the owner, one of his houses should have been excluded and had not been. In *In re Bowman* [1932] 2 K.B. 621, at p. 634, he (his lordship) had said that a case might one day arise where it might be said that there was no material before the local authority on which they could reasonably

be satisfied that a clearance order ought to be made, but that where there was obviously ample material before the authority to justify their making the order the court had no right to interfere. The material which the authority had to have before them in order to satisfy themselves was laid down by the Act, and it was either an official representation or some information in their possession. It was idle to say that what was meant was that the authority must have evidence in the sense of witnesses called to testify about these matters. The Act said nothing of the kind. *Bowman's Case, supra*, referred to the duty of local authorities, but it was contended here that the Minister was under a duty to hear evidence beyond the report of his inspector, and to satisfy himself, on that evidence, whether the premises in question were fit or unfit for human habitation. The authority here had made the clearance order with proper material before them. The inspector at the enquiry had heard everything which anyone had wished to say, and had himself inspected the premises. The Minister had decided on that to confirm the order, and it could not be said that there was no evidence on which he could do so. He had to comply with the Act; a proper order having been submitted to him, he ordered a proper enquiry to be held. Having received that report, he had to decide whether to confirm the order, and it was not for the court to interfere with his decision. The appeal must be dismissed.

COUNSEL: *H. A. Hill*, for the appellant; *Valentine Holmes*, for the Minister.

SOLICITORS: *Peake & Co.*, agents for *Ratcliffe, Son and Henderson*, Falmouth; *Solicitor to the Ministry of Health.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Court of Criminal Appeal

R. *v.* Davis.

Lord Hewart, C.J., Finlay and Goddard, JJ.

13th July, 1937.

MURDER—TWO MURDERS CHARGED ON ONE INDICTMENT—EFFECT.

Appeal against conviction.

The appellant was charged before Lawrence, J., at Bodmin Assizes, with the murder, between the 20th and 29th April, 1937, of his wife and his niece. The indictment contained two counts, one in respect of each of the two charges of murder. The appellant, having been convicted on both charges, now appealed.

LORD HEWART, C.J., said that the notice of appeal contained two grounds which counsel had not persisted in; but the court had permitted counsel to take two other points not contained in the notice of appeal. The first was that the indictment contained two counts relating to two separate murders. It was admitted from the Bar that, at the trial, counsel for the Crown had offered either to proceed on one count only, or to frame two separate indictments and proceed on one of them. Counsel for the prisoner did not accept that offer, but nevertheless was to-day inclined to take the point that an indictment for murder should contain no other count. It was highly undesirable that in a case of murder more than one charge should be included in the indictment. The court had no doubt that the proper course was to have a separate indictment for each charge. But it was one thing to say that it was highly undesirable, and quite a different thing to say that it went to the root of the jurisdiction. It was clear that it did not. In the opinion of the court, it was not accurate to say that the joinder of those counts was fatal, and it was clear that the two cases might together be regarded as one transaction. But the joinder of two murders in one indictment was undesirable, although the joinder of the two counts did not invalidate the conviction. There was no suggestion of any defect in the summing-up, and the only defence, that of insanity, failed. The appeal must be dismissed.

COUNSEL: *J. L. Pratt* and *L. Brooks*, for the appellant; *G. D. Roberts*, K.C., and *L. R. Miller*, for the Crown.

SOLICITORS: *Registrar of Court of Criminal Appeal; Director of Public Prosecutions.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

[For Table of Cases previously reported in current volume see page iii of Advertisements.]

CORRECTION.

Allied Newspapers Ltd. *v.* Hinsley (Inspector of Taxes).

The report of this case at p. 569 of last week's issue appeared incorrectly under the heading "Chancery Division." It should, of course, have been under the heading "King's Bench Division."

The Law Society.

ANNUAL GENERAL MEETING.

The Society held its annual general meeting on the 9th July, at Bell Yard, with the retiring President, Sir HUBERT DOWSON in the chair.

The President announced that Mr. F. E. J. SMITH had been duly nominated and elected President, and Mr. A. M. INGLEDEW (Cardiff) Vice-President, for the year 1937–8. These officers thanked the Society briefly for the honour it had conferred upon them.

On the motion to elect twelve members of council, Mr. J. O. STACEY drew attention to a circular letter which had been sent out over the name of Mr. L. S. HOLMES (Liverpool), hon. secretary of the Associated Provincial Law Societies, recommending members of those societies not to vote for Mr. T. W. Wood Roberts, Vice-President of the Croydon and District Law Society. He suggested that the selection committee who nominated candidates might have given expression to this wish. The circular was read by the President; it was addressed to the honorary secretary of the Nottingham Law Society and stated that in order to maintain the present proportion of country members on the council the writer requested the recipient to recommend the voters in his district to support the candidatures of two named members; that Mr. Wood Roberts had not been nominated under the provisions of the 1908 scheme for the representation of provincial law societies and that voters should therefore be recommended not to vote for him. Mr. HOLMES reminded members that in 1908 a scheme had been negotiated between the country members and the London members of The Law Society under which the former should have a due proportion of members on the council. One of the conditions had been that if a member was nominated in competition with the selected candidate of a country district, or otherwise than under the provisions of the scheme, the secretary of the Associated Societies should request the provincial societies to recommend their voters not to support that candidate. He had been bound under those rules to send out the circular to all secretaries of provincial societies, in order that a candidate not nominated in accordance with the scheme might not, perhaps, dislodge one of the nominated provincial members. Mr. Wood Roberts had been nominated as practising in the Temple and also at Croydon.

The President ruled that the matter concerned the provincial law societies alone, and announced that the meeting would, at its end, stand adjourned until Thursday, the 22nd July, at 2 o'clock, for the purpose of receiving the scrutineers' report on the poll.

After the accounts, moved by Mr. A. C. MORGAN, hon. treasurer, had been adopted without comment, the President moved the adoption of the annual report. He first expressed the regret of the council at the retirement from it of Mr. T. H. Bischoff and Mr. H. M. Farrer. As chairman of the Legal Education Committee, Mr. Bischoff had devoted an enormous amount of time and thought to the curricula for the intermediate and final examinations. He had remained on the council long enough to see his reforms embodied in an Act of Parliament. Mr. Farrer had been a member of council for three years only but had found that professional engagements were making too heavy demands on his time.

The membership had continued to increase and had reached the very satisfactory total of 10,908 members. This large membership was an encouragement to the council to hope not

merely that members thought they were trying to govern the Society in the best interests and the highest traditions of the profession, but also that members appreciated the necessity for supporting the council in every possible way. A statement had recently appeared in the public press that the council were out of touch with the real problems of the profession. The President could not understand how anyone who had observed from the recent annual reports the many problems with which the council had to deal could make himself responsible for such a statement. The daily correspondence in the Society's office covered every conceivable matter in which the profession could be interested. Nothing would be easier than for anyone of the nearly 11,000 members to write and complain of any specific instance of the council being out of touch with the profession, but not one such letter had been received. On the other hand, solicitors wrote constantly from all parts of the country submitting their day-to-day problems and difficulties, confident that their questions would be helpfully answered. The Scale Committee met regularly once a fortnight and answered an incredible variety of questions. The Professional Purposes Committee met once a week, and had last year dealt with 1,500 applications concerning the practice and etiquette of the profession. The council of The Law Society could therefore not be maintained to be out of touch with the real problems of the profession, both in the provinces and in London.

The Law Society and the provincial societies had kept well abreast of the Poor Persons' work, and the London profession had responded to Sir Harry Pritchard's appeal for additional assistance. Every committee had, however, as much work as it could manage, and the council had felt a certain anxiety lest the Marriage Bill, if it became law, would increase the number of applications by poor persons for divorce. The council hoped that every possible care would be taken to protect the great organisation which had been built up during the last eleven years and had proved of such enormous benefit to so many poor people.

Acting on Mr. S. C. T. Littlewood's resolution, passed at the January meeting, the council had arranged for time to be set aside after the President's address at the Exeter Provincial Meeting for discussion of the work and the activities of the council. The President had hoped, as chairman of the Scale Committee, that the new edition of the "Solicitors' Remuneration Digest" and "Law, Practice, and Usage," would reach the hands of members during his year of office. This object had not been quite achieved, but the publishers encouraged him to hope that the new edition, a single volume, would be available before the end of the long vacation. In conclusion, he acknowledged the help and support of his Vice-President, Mr. Smith, of all the members of the council, and of the secretary, Sir Edmund Cook, and his staff, and declared that he would treasure as long as he lived the memory of his presidential year.

Mr. SMITH seconded the motion, and the report was adopted without debate.

DISCUSSION OF PROFESSIONAL PROBLEMS.

Mr. C. L. NORDON moved :—

> That it is desirable in the interests of the profession for greater facilities to be given for members to exchange views on matters affecting their professional work and to communicate such views to the council; and accordingly that the council be invited to take into consideration the holding of monthly evening meetings of members at The Law Society's Hall (to be preceded, if practicable, by dinner in Hall), over which the President or another member of council would preside and at which subjects of importance may be brought forward for private discussion and mutual assistance; and that the dates of such meetings and the subjects to be brought forward for discussion be announced in the "Gazette."

The solicitor to-day, he said, had to take account of rapidly changing conditions and to work under the responsibility created by accumulating legislation and judicial decisions, on which he had to advise. By any mistake he might imperil his fortune and his reputation. His function was to steer the public through the complicated mass of modern affairs, to safeguard their liberty and to resolve chaos into order by the exercise of his professional skill and judgment. The knowledge which he must possess was almost stupendous, and was represented by the hundred thousand or so pages of "Halsbury's Laws of England," "Halsbury's Statutes," "The Annual Practice," the precedents, the yearly volumes of reported cases, and other works of reference. Truly, the price of Empire was eternal vigilance! Opportunities for mutual discussion and guidance must be helpful to solicitors and beneficial to the public. At present there were only three annual occasions. The January special meeting and the July general meeting were held at 2 o'clock, a very inconvenient time for busy men; the formal business and the President's speech must take up a great deal of the available time and after that members had to go back to their appointments. The annual provincial meeting was never attended by more than 200 members, excluding members of the council, and the time available for discussion was largely curtailed by counter-attractions, so that only a bare fragment of the profession took part. The council were therefore not kept sufficiently in touch with the needs of the individual solicitor. If monthly meetings were held, not necessarily in the summer months, they would have an opportunity of hearing these needs expressed. If the motion were carried, the council would be given hearty co-operation. If the idea proved after twelve months not to be a success, it would be dropped.

Mr. A. BRIGHT seconded the motion, adding that some of the methods now adopted by younger members of the profession—such as the iniquitous one of offering an examined abstract of title as a substitution for seeing the original deeds—would be recognised as harmful if solicitors could have full opportunity for practical discussion.

Mr. S. C. T. LITTLEWOOD observed that it would be very unfair if at such meetings as were suggested anything in the nature of a decision affecting the whole profession were taken. He also considered that the preliminary dinner would be fatal to the success of the meeting; in a few months the dinner alone would remain. He would heartily support informal and friendly chats with members of council, without any set motions.

Mr. BARRY O'BRIEN proposed amendments which would make the motion read as follows :—

> That it is desirable that facilities be given for members to exchange views on matters affecting their professional work and to communicate such views to the council; and that accordingly the council take into consideration the holding of monthly meetings of members at The Law Society's Hall at which subjects of importance may be brought forward for discussion, and that the dates of such meetings may be announced in the "Gazette."

Solicitors were, he maintained, the most under-valued and underpaid and in every respect the worst recognised profession.

Sir REGINALD POOLE hoped that the time would come when, having been stripped of every other qualification that solicitors might possess, they would retain the quality of practical common sense. Dinner was out of the question, because the caterer would not know the number of people for whom he would have to cater. The railway companies would, of course, run special trains to bring up from the country the vast majority of country members who would attend the meetings. Solicitors were all busy people, and by the time they had finished their day's work they were glad to get home, listen to the wireless, read the paper, and try the crossword puzzle. God forbid that they should meet together and go over again the business that they had been doing day after day, for the meetings would amount to nothing else. They would be a sort of forensic *soirée*. He suggested, among the subjects that might be discussed with advantage, that the President should read a paper on "The Speculative Action as an Ideal," Sir Edmund Cook should speak on "The Rules, and how to get round them"; Mr. Barry O'Brien might deliver an address on "The Art of Oratory," or how to make a long and a good speech without saying anything, and that, in conclusion, there might be left to Mr. Nordon a paper on "The Music of One's Own Voice."

Mr. M. C. BATTEN suggested that if the motion were adopted the council should examine the methods of the Royal Society of Medicine, a body somewhat comparable to The Law Society, which had periodic meetings at which matters affecting the medical profession were discussed with considerable benefit to its members.

Mr. H. GALLIENNE LEMMON (King's Lynn) supported the project for informal meetings at which the lesser lights of the law could meet members of council.

Mr. L. SPERO observed that the large attendance showed a good deal of interest in the motion, but, in his opinion, quarterly meetings would be enough. The many correspondents whom the President had mentioned probably asked specific practical questions; the young solicitor wanted fatherly advice on matters which he could hardly put into words.

Mr. NORDON, in reply, retorted gracefully that if the motion were carried, Sir Reginald Poole would have another burden added to his professional life, for he was one from whom all solicitors could learn a great deal of the practical difficulties of the profession. He accepted Mr. O'Brien's amendments.

The motion as amended, was put to the meeting and carried, fifty-one members voting in favour and thirty-four against.

The PRESIDENT promised that the council would take the matter into consideration at an early date.

Banquet to His Majesty's Judges.

The LORD MAYOR, Sir George Broadbridge, presided at the annual banquet to His Majesty's Judges, given on the 6th July, at the Mansion House. After the loyal toasts had been honoured, the Lord Mayor proposed the health of the Lord Chancellor, sketching Viscount Hailsham's distinguished career and congratulating him on his restoration to health.

THE LORD CHANCELLOR, in reply, after a glowing personal tribute to the King, remarked that it was a happy augury that the Coronation should synchronise with the Imperial Conference. The presence of judges from all over the Empire signified the unity of the administration of justice and the common determination of the British people to maintain the principles of order and liberty. The most important legal event in the past twelve months had probably been the completion of the County Court Rules and the bringing into effect of the County Courts Act, 1934. The work of law reform was proceeding vigorously. He referred with regret to the retirement of Lord Blanesburgh, Sir Harry Eve, Sir Thomas Horridge and Sir George Talbot, and finally observed that no one who had not recently been ill appreciated how great a thing it was to wish a man good health.

THE LORD MAYOR then proposed the health of the Lord Chief Justice of England, and said that a man who occupied the high position of a judge had been through the mill of experience at the Bar, and therefore had a fellow-feeling with counsel. Judges always seemed to attain a ripe old age, doubtless because of the nice restful life they led, sitting all day on the bench being lulled to sleep by the voices of witnesses and counsel.

LORD HEWART, Lord Chief Justice, rose, he said, to a preliminary objection against the Lord Mayor's expression of the common fallacy that judges lived long because they had a soft job. They lived long because, having survived the mill at the Bar, they could survive anything on earth. In welcoming the Lord Chancellor back to health, he expressed the sincere hope that Lord Hailsham would hold his distinguished office for many years, and the opinion that nothing was less desirable or less desired than that there should be a change in the office of Lord Chancellor. He paid tributes to his brothers who had retired, and to the City, which he declared would never tolerate hypocrisy or treachery in any form or permit itself to be influenced by intrigue, either subterranean or anonymous.

The toast "The Profession of the Law" was then proposed by LORD ATKIN, who said that the so-called uncertainty of the law was not in the main due to any defect in the law or in the lawyers, but to the apparently unconquerable disability of laymen to express themselves with inevitable clearness. The courts found from time to time that gentlemen of great position in the commercial world used old contracts which contained in themselves the necessary seeds of complete uncertainty, contracts which dated from the year one. When people used these old forms it was as though a man who desired to proceed on a long and important journey should use a vehicle compounded of a wheelbarrow, a Roman chariot, a stage coach and a Rolls-Royce.

THE SOLICITOR-GENERAL (Sir Terence O'Connor, K.C.), in reply, maintained that, were it not for the uncertainty of the law, half the joy and all the emoluments of lawyers would disappear. No case was lost until it was won, and the ultimate decision might rest not so much on some fine point of jurisprudence as upon the effectiveness of the learned judge's digestive tract. Advocates could believe that they were performing in an ordered community a service than which there was none higher or more dignified; that they were playing a part in procuring justice between subject and subject and between monarch and subject.

Sir HUBERT DOWSON (President of The Law Society) also replied, thanking the Lord Chancellor and his assistants for the help they had given to the Council of The Law Society during the past year. His Majesty's judges also rendered unfailing help in the maintenance of the high standard of conduct at which solicitors all aimed. In spite of the spread to the people of the country of a knowledge of legal principles, they still brought their troubles to solicitors, whose advice they generally followed to their profit.

Sir WILFRID GREENE (Master of the Rolls) then proposed "The Court of Aldermen and the Sheriffs." He remarked that good wine needed no bush, and that the aldermen and sheriffs of every year might fairly be described as a vintage product. The law's relations with the City had not always been peaceful, for on the 3rd March, 1668, the Reader of the Inner Temple had invited the Lord Mayor to a feast, and the Lord Mayor, accompanied by two aldermen and various others, had presented himself at the City gate with his sword-bearer before him carrying the sword of state aloft. No sooner had he entered the precincts of the Inner Temple than certain junior barristers and students, jealous of the independence of their Inn, had called upon the sword-bearer to put down the sword; and one of them, actually the son of an alderman, had addressed the Lord Mayor as "Mr. Mayor" and "used him slightly." The Lord Mayor had taken refuge in some neighbouring chambers, and after considerable uproar, in which a gentleman of the name of Jeffries, afterwards notorious, as Jeffries, J., had taken a prominent part, the Lord Mayor had departed without his dinner. The Privy Council had taken the matter up and received a deputation of the Inner Temple authorities, who undertook to make peace. The Benchers of the Inn had then endeavoured to persuade the Lord Mayor not to insist upon carrying his sword within the boundaries of the society, and undertook, if he would waive this claim, to entertain him to dinner with "unimaginable civility." The Lord Mayor, however, had replied that he bore the King's sword throughout the City, of which the Temple was part; he would be glad to dine with the Reader of the Inn, but would bear his sword aloft and "see who dared to take it down." The Privy Council had ordered that the declaration of the King's pleasure be suspended until the rights and privileges of the Temple had been tried before the courts. This had never been done, and Sir Wilfrid threw out the suggestion that the question might even now be decided with the assistance of counsel of the greatest eminence, but that it might be better wiped out by a modern exchange of hospitality.

Alderman Sir ALFRED BOWER, Bart., and Alderman and Sheriff Sir FRANK POLLITZER, replied.

VISCOUNT FINLAY proposed the health of the Lord Mayor and Lady Mayoress, and the Lord Mayor replied.

Societies.

The Law Society.

AWARD OF STUDENTSHIPS FOR 1937.

The Council, acting on the recommendation of the Legal Education Committee, have made the following award of three Studentships of the annual value of £40 each, tenable for one year, but renewable at the discretion of the Council:—

CLASS A (candidates under nineteen years of age):—

Mr. Guy Maurice Bratt (educated at Merchant Taylors and The Law Society's School; articled to Mr. S. W. Price, of London).

Mr. James Douglas Cousin (educated at Berkhamsted and The Law Society's School; articled to Mr. R. H. Wright, of Surbiton).

CLASS B (candidates with not less than three years' articles to serve from 1st June, 1937):—

Mr. Duncan Gerald John Millington (educated at St. Paul's and The Law Society's School; articled to Mr. R. H. Wanklyn, of Ealing).

HONOURABLE MENTION:—

Mr. Donald Roy Prince (Class B) (educated at Crewe County School; articled to Mr. C. M. McHale, of Chester).

The Hardwicke Society.

A meeting of the Society was held on Friday, 9th July, in the Middle Temple Common Room, the Hon. Treasurer, Mr. G. E. Llewellyn Thomas, in the chair. Capt. A. E. Saalfeld moved: "That the Nation which desires peace must prepare for war." Mr. Richard F. Hunt opposed. There also spoke Mr. L. Travers, Mr. T. W. South, Mr. L. Caplan, Mr. J. A. Grieves, Mr. Picarda, Mr. C. O. Cummins, Mr. Cochrane, and Mr. Lewis F. Sturge (Hon. Secretary). The Hon. Mover having replied, the House divided, and the motion was carried by three votes.

Gloucestershire and Wiltshire Incorporated Law Society.

The annual meeting of the Gloucestershire and Wiltshire Incorporated Law Society was held at Bibury, on 7th July, under the chairmanship of the President, Mr. Percy Haddock, of Cheltenham. There were a large number of members present. After the minutes of the last annual meeting had been read and confirmed, the annual report and accounts were received and adopted. Mr. R. J. Mullings, of Cirencester, was elected President, and Mr. Edward Sant, of Salisbury, Vice-President, for the ensuing year. The General Committee, Library Committee and Poor Persons Cases Committee were appointed.

Charitable grants amounting to £21 were voted, and also a donation of £21 to the funds of the Solicitors' Benevolent Association. The membership of the Society is now 164.

Parliamentary News.

Progress of Bills.

House of Lords.

Aberystwyth Rural District Council Bill.
Reported, with Amendments. [13th July.
Chairman of Traffic Commissioners, etc. (Tenure of Office) Bill.
Reported, without Amendment. [13th July.
Cinematograph Films (Animals) Bill.
In Committee. [13th July.
Coal (Registration of Ownership) Bill.
Read Third Time. [8th July.
Coatbridge Burgh Extension, etc., Order Confirmation Bill.
Reported. [13th July.
Eastbourne Extension Bill.
Royal Assent. [13th July.
Edinburgh Corporation Order Confirmation Bill.
Reported. [13th July.
Export Guarantees Bill.
Read First Time. [14th July.
Factories Bill.
In Committee. [12th July.
Gosport Water Bill.
Royal Assent. [13th July.
Hastings Corporation General Powers Bill.
Royal Assent. [13th July.
Ilford Corporation Bill.
Royal Assent. [13th July.
Lancashire Electric Power Bill.
Royal Assent. [13th July.
Livestock Industry Bill.
Read Third Time. [8th July.
Local Government Superannuation Bill.
Read Second Time. [13th July.
Local Government Superannuation (Scotland) Bill.
Read First Time. [14th July.
London Passenger Transport Board Bill.
Read Third Time. [14th July.
Methylated Spirits (Sale by Retail) (Scotland) Bill.
Royal Assent. [13th July.
Ministry of Health Provisional Order Confirmation (Maidenhead Water) Bill.
Royal Assent. [13th July.
Ministry of Health Provisional Order Confirmation (Morecambe and Heysham) Bill.
Read Third Time. [12th July.
Ministry of Health Provisional Order Confirmation (Sevenoaks Water) Bill.
Royal Assent. [13th July.
Ministry of Health Provisional Order (Birmingham, Tame and Rea Main Sewerage District) Bill.
Read Second Time. [12th July.
Ministry of Health Provisional Order (Cleveland Water) Bill.
Read First Time. [12th July.
Ministry of Health Provisional Order (Halifax) Bill.
Read Third Time. [14th July.
Ministry of Health Provisional Order (Hornsea) Bill.
Read Third Time. [14th July.
Ministry of Health Provisional Order (Tonbridge Water) Bill.
Read Third Time. [14th July.
Ministry of Health Provisional Order (Wisbech Water) Bill.
Read Second Time. [14th July.
Ministry of Health Provisional Order (Yeadon Water) Bill.
Read Second Time. [14th July.
Motherwell and Wishaw Burgh Order Confirmation Bill.
Reported. [13th July.
Newcastle-under-Lyme Corporation Bill.
Royal Assent. [13th July.
Newcastle-upon-Tyne Corporation Bill.
Reported, with Amendments. [8th July.
Nigeria (Remission of Payments) Bill.
Read First Time. [13th July.
Physical Training and Recreation Bill.
Royal Assent. [13th July.
Pier and Harbour Provisional Order (Culag (Lochinver)) Bill.
Royal Assent. [13th July.
Pier and Harbour Provisional Order (Falmouth) Bill.
Royal Assent. [13th July.
Pier and Harbour Provisional Order (Fowey) Bill.
Royal Assent. [13th July.
Post Office and Telegraph (Money) Bill.
Reported, without Amendment. [13th July.
Rating and Valuation Bill.
Read Second Time. [13th July.
Rotherham Corporation Bill.
Royal Assent. [13th July.
Southampton Corporation Bill.
Reported, with Amendments. [8th July.
Staffordshire Potteries Water Board Bill.
Reported, with Amendments. [8th July.
Summary Procedure (Domestic Proceedings) Bill.
In Committee. [13th July.
Teachers (Superannuation) Bill.
Royal Assent. [13th July.
Torquay Corporation Bill.
Reported, with Amendments. [8th July.
Trade Marks (Amendment) Bill.
Royal Assent. [13th July.
Wadebridge Rural District Council Bill.
Reported, with Amendments. [8th July.

House of Commons.

Access to Mountains Bill.
Read First Time. [8th July.
Agriculture Bill.
Amendments considered. [14th July.
Agricultural Wages (Regulation) (Scotland) Bill.
Read Third Time. [13th July.
Banbury Waterworks Bill.
Amendments considered. [12th July.
Bournemouth Corporation (Trolley Vehicles) Provisional Order Bill.
Read First Time. [8th July.
Coal (Registration of Owners) Bill.
Read Second Time. [13th July.
Coatbridge Burgh Extension, etc., Order Confirmation Bill.
Read Third Time. [12th July.
Couisdon and Purley Urban District Council Bill.
Amendments considered. [12th July.
Eastbourne Extension Bill.
Read Third Time. [8th July.
Edinburgh Corporation Order Confirmation Bill.
Read Third Time. [12th July.
Export Guarantees Bill.
Read Third Time. [13th July.
Finance Bill.
Amendments considered. [14th July.
Gosport Water Bill.
Lords' Amendments agreed to. [9th July.
Hastings Corporation General Powers Bill.
Lords' Amendments agreed to. [9th July.
Hertfordshire County Council (Colne Valley Sewerage, etc.) Bill.
Amendments considered. [12th July.
Ilford Corporation Bill.
Amendments considered. [9th July.
Isle of Man Customs Bill.
Read Second Time. [13th July.
Lancashire Electric Power Bill.
Lords' Amendments agreed to. [9th July.
Liverpool United Hospital Bill.
Reported, with Amendments. [14th July.
Livestock Industry Bill.
Lords' Amendments agreed to. [13th July.
Local Government Superannuation (Scotland) Bill.
Read Third Time. [13th July.
Milk (Amendment) Bill.
Read Second Time. [12th July.
Ministry of Health Provisional Order (Clevedon Water) Bill.
Read Third Time. [9th July.
Ministry of Health Provisional Order Confirmation (Bridlington) Bill.
Read Second Time. [14th July.
Ministry of Health Provisional Order Confirmation (Guildford) Bill.
Read Second Time. [14th July.
Ministry of Health Provisional Order Confirmation (Morecambe and Heysham) Bill.
Read First Time. [12th July.
Ministry of Health Provisional Order Confirmation (Rhymney Valley Sewerage District and Western Valleys (Monmouthshire) Sewerage District) Bill.
Read Second Time, [14th July.
Ministry of Health Provisional Order Confirmation (Selby) Bill.
Read Second Time. [14th July.
Ministry of Health Provisional Order Confirmation (South East Essex Joint Hospital District) Bill.
Read Second Time. [14th July.
Ministry of Health Provisional Order (Tonbridge Water) Bill.
Lords Amendments agreed to. [14th July.

Ministry of Health Provisional Order Confirmation (Tynemouth) Bill.
Read Second Time. [14th July.
Motherwell and Wishaw Burgh Order Confirmation Bill.
Read Third Time. [12th July.
Newcastle-under-Lyme Corporation Bill.
Read Third Time. [8th July.
Nigeria (Remission of Payments) Bill.
Read Third Time. [12th July.
Poole Corporation Bill.
Reported, with Amendments. [8th July.
Rating and Valuation Bill.
Read Third Time. [7th July.
Saint Paul's and Saint James' Churches (Sheffield) Bill.
Reported, with Amendments. [14th July.
Sea Fish (Dyeing and Colouring Prohibition) Bill.
Read First Time. [14th July.
Taunton Corporation Bill.
Reported, with Amendments. [12th July.
Whitehaven Harbour Bill.
Amendments considered. [12th July.
Woodhall Spa Urban District Council Bill.
Reported, with Amendments. [8th July.

Questions to Ministers.

TITHE RENT-CHARGE.

Sir WILLIAM WAYLAND asked the Minister of Agriculture whether he is aware that tithe-payers, as a condition of obtaining remission of excessive tithe, are being required to answer questions which, in many cases, they cannot answer—for example, to state in what tithe district the land is situate, although they have no information regarding tithe districts; and, further, to state the numbers of the tithe areas, although the tithe apportionments are not in the possession of the tithe-payers nor readily available for their inspection; and whether he will take steps to secure that the county, parish and ordnance survey numbers be accepted as a sufficient description of lands in respect of which a certificate of annual value is required.

The Financial Secretary to the Treasury (Lieut.-Colonel COLVILLE): I have been asked to reply. The particulars required to be given are prescribed by the Redemption Annuities Rules, 1936, made by the Tithe Redemption Commission under the Tithe Act, 1936. Should information regarding the tithe areas concerned not already be in the possession of landowners, it can be obtained by inspecting the local copies of the instruments of tithe apportionment in the parish, where they are normally in the custody of the incumbents and churchwardens.

Sir W. WAYLAND: Is there any objection to the ordinary ordnance maps being accepted? They are very easy to obtain; they can be purchased anywhere.

Lieut.-Colonel COLVILLE: This information is required by the provisions of the Act. If my hon. Friend knows of any case in which the information cannot be obtained, perhaps he will let me know. [12th July.

THORNE *v.* MOTOR TRADE ASSOCIATION.

Sir A. WILSON asked the President of the Board of Trade whether his attention has been drawn to the decision of the courts in the case of *Thorne* v. *Motor Trade Association*, that it is not illegal for a trade association to demand of a trader, whether he is a member of the association or not, a money payment as the price of abstaining from putting him on its stop list; and whether he will consider the need for legislation on the subject in the light of the Report of the Departmental Committee on Restraint of Trade to restore the decision of the Court of Criminal Appeal in the case of *Rex* v. *Denyer* [1926] 2 K.B. 258.

Mr. STANLEY: The answer to the first part of the question is in the affirmative. I would, however, point out that the decision of the Court of Criminal Appeal in the case of *Rex* v. *Denyer*, to which my hon. and gallant Friend refers was apparently in conflict with a decision of the Court of Appeal in another case, and I understand that the case of *Thorne* v. *The Motor Trade Association* was brought to resolve this divergence of view. With regard to the second part of the question, I see no reason to dissent from the view of the Committee referred to that legislation on this subject is not called for. [12th July.

LAND REGISTRATION, MIDDLESEX.

Mr. JAGGER asked the Attorney-General, whether, in view of s. 120 of the Land Registration Act, 1925, the extension of the system of registration of land to the County of Middlesex in January last may be regarded as an indication that the authorities were satisfied, after the expiration of the ten years mentioned in the section, as to the desirability of extending the system; and whether steps are being taken to ensure further extensions.

The ATTORNEY-GENERAL: My noble Friend, the Lord Chancellor, took such steps as are directed by the Statute to extend the system of compulsory registration of land in the County of Middlesex because he was satisfied that it was desirable to extend that system to that county at that time, and that the necessary machinery was available for the purpose. The question of any further extension is under close examination by my noble Friend. [14th July.

Legal Notes and News.

Honours and Appointments.

The King has been graciously pleased to approve the appointment of Mr. Justice BISHESHAR NATH SRIVASTAVA, O.B.E., a Judge of the Oudh Chief Court, as Chief Judge of the Oudh Chief Court, in succession to Sir Carleton Moss King, with effect from 22nd October next.

His Majesty has also been graciously pleased to approve the appointment of Mr. HAROLD GORDON SMITH, I.C.S., acting Judge of the Oudh Chief Court, to be a Judge of the Oudh Chief Court, in succession to Mr. Justice Nanavutty, with effect from Monday last.

The Lord Chancellor has appointed Mr. FREDERICK HERBERT DAUNCEY to be the Registrar of Monmouth County Court as from the 12th July.

The Council of Legal Education announce the appointment as from the commencement of the Michaelmas Term, 1937, of Mr. HAROLD GREVILLE HANBURY, D.C.L., M.A., Barrister-at-Law, Fellow of Lincoln College, Oxford, University Lecturer in Law, to be Assistant Reader in Equity at the Inns of Court. Mr. Hanbury was called to the Bar by the Inner Temple in 1922.

Mr. R. DE MORNAY DAVIES, solicitor, of St. Albans and Wheathampstead, Herts, has been appointed Clerk to the Wheathampstead Parish Council. The appointment, which is an annual one, will commence as from 1st August, 1937. Mr. Davies was admitted a solicitor in 1915.

Mr. JOHN BINNS, Deputy Town Clerk of Burnley, has been appointed Town Clerk of Hyde in succession to Mr. ROGER ROSE, who has been appointed Town Clerk of Morecambe and Heysham. Mr. Binns was admitted a solicitor in 1928.

Mr. ALAN SMITH, Assistant Solicitor to Eastbourne Corporation, has been selected for the post of Senior Assistant Solicitor to the Liverpool Corporation. Mr. Smith was admitted a solicitor in 1930.

Mr. J. H. THOMAS, solicitor, of Ormskirk, Lancashire, has been appointed Clerk to the Uckfield Rural Council. Mr. Thomas was admitted a solicitor in 1925.

The Board of Trade have appointed Mr. FREDERICK RUSSELL DOGGETT WALTER to be Official Receiver for the Bankruptcy District of Norwich and Great Yarmouth County Courts, vice Mr. Charles Bolingbroke Leathes Prior as from the 1st August, 1937. Mr. Walter was admitted a solicitor in 1921.

Professional Announcements.

(2s. per line.)

The partnership previously carried on at 3, Lincoln's Inn Fields, London, W.C.2, by Mr. THOMAS HENRY LLOYD, Mr. HUGH CLAYTON ARMSTRONG and Mr. LEONARD WILLIAM FYSON under the firm name of "Lloyd & Armstrong" has been dissolved as from the 26th June, 1937.

Mr. LLOYD will continue to carry on his practice at the same address under the new firm name of "Lloyd & Lloyd," taking into partnership with him his son Mr. T. H. PERCEVAL LLOYD.

Mr. H. C. ARMSTRONG and Mr. L. W. FYSON are now carrying on business at 26, Bedford Row, W.C.1, under the firm name of "L. W. Fyson & Armstrong."

Notes.

Messrs. Jordan & Sons, Ltd., Company Registration Agents, of Chancery Lane, W.C.2, have just issued their Half-yearly Statistical Report relating to new companies registered in England during the half-year ended 30th June, 1937. The table has been compiled from official sources.

The thirtieth annual general meeting of the Bribery and Secret Commissions Prevention League will be held on Tuesday, 20th July, at 3 p.m., at 22, Buckingham Gate, S.W.1; Sir David Milne-Watson presiding.

A dinner was given last Monday in Lincoln's Inn Hall by members of the Chancery Bar Association in honour of Sir Harry Eve. Sir Gerald Hurst, K.C., chairman of the association, presided. The toast of "Our Guest" was proposed by Lord Maugham and Sir Harry Eve replied.

Sir Holman Gregory, K.C., has resigned the office of Recorder of London as from 9th October next. He has held the office since 1934, when he succeeded the late Sir Ernest Wild. Appointed a Judge of the City of London Court in 1929, he became Common Serjeant in succession to Sir Henry Dickens three years later.

At the annual meeting of the Coroners' Society of England and Wales, at the Holborn Restaurant, Sir Seymour Williams, coroner for Gloucester, was elected president. Mr. G. Wills Taylor, Surrey, was elected senior vice-president and Dr. H. Beecher Jackson, Croydon, junior vice-president. Sir Walter Schroder was re-elected secretary.

The very successful exhibition of old records and registers, organised at the General Register Office in connection with the celebration of the centenary of the establishment of civil registration, will be closed after to-day, the 17th July. For the convenience of those unable to attend earlier, the exhibition will remain open until 3.30 p.m. to-day.

"The idea that a husband is always responsible for debts contracted by the wife is not true," declared Judge Wethered, at Taunton County Court, last Monday, says *The Daily Telegraph*. "If a husband makes his wife a weekly allowance, which is agreed between them, whether it is reasonable or not, the presumption that she has his authority to pledge his credit is rebutted. The man is then not liable at all, but the wife herself is liable."

The Ministry of Transport having received representations from cyclist organisations that the use of metal studs to mark pedestrial crossings was a source of potential danger, asked the British Road Federation for its views. According to the Federation's annual report, which was issued recently, says *The Times*, it replied that on new and relaid crossings studs should be abolished and crossing-places be constructed of coloured material. If this were not possible the Federation had no objection to the Ministry's proposals for the alignment of studs to prevent their being staggered, the carriageway a short distance from the kerb being kept free from studs.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT No. 1.	GROUP II. MR. JUSTICE CLAUSON. Witness Part I.	MR. JUSTICE LUXMOORE. Non-Witness
	Mr.	Mr.	Mr.	Mr.
July 19	More	Jones	*Blaker	Hicks Beach
,, 20	Hicks Beach	Ritchie	*More	Andrews
,, 21	Andrews	Blaker	*Hicks Beach	Jones
,, 22	Jones	More	Andrews	Ritchie
,, 23	Ritchie	Hicks Beach	Jones	Blaker
,, 24	Blaker	Andrews	Ritchie	More

DATE	GROUP II. MR. JUSTICE FARWELL. Witness Part II.	MR. JUSTICE BENNETT. Non-Witness.	GROUP I. MR. JUSTICE CROSSMAN. Witness Part I.	MR. JUSTICE SIMONDS. Witness Part II.
	Mr.	Mr.	Mr.	Mr.
July 19	*More	Ritchie	*Andrews	Jones
,, 20	*Hicks Beach	Blaker	*Jones	Ritchie
,, 21	*Andrews	More	*Ritchie	Blaker
,, 22	*Jones	Hicks Beach	*Blaker	More
,, 23	*Ritchie	Andrews	*More	Hicks Beach
,, 24	Blaker	Jones	Hicks Beach	Andrews

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 22nd July, 1937.

	Div. Months.	Middle Price 14 July 1937.	Flat Interest Yield. £ s. d.	‡ Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	107xd	3 14 9	3 10 2
Consols 2½%	JAJO	75	3 6 8	—
War Loan 3½% 1952 or after	JD	100⅜	3 9 9	3 9 4
Funding 4% Loan 1960-90	MN	110	3 12 9	3 7 4
Funding 3% Loan 1959-69	AO	93½	3 4 2	3 6 9
Funding 2¾% Loan 1952-57	JD	90½	3 0 9	3 8 3
Funding 2½% Loan 1956-61	AO	85½	2 18 6	3 7 10
Victory 4% Loan Av. life 22 years	MS	109	3 13 5	3 8 3
Conversion 5% Loan 1944-64	MN	112½	4 9 1	2 17 9
Conversion 4½% Loan 1940-44	JJ	105⅝	4 5 1	2 10 0
Conversion 3½% Loan 1961 or after	AO	100¼	3 9 10	3 9 8
Conversion 3% Loan 1948-53	MS	98¼	3 1 1	3 2 9
Conversion 2½% Loan 1944-49	AO	95½	2 12 4	2 19 0
Local Loans 3% Stock 1912 or after	JAJO	85⅝	3 9 11	—
Bank Stock	AO	342½	3 10 1	—
Guaranteed 2½% Stock (Irish Land Act) 1933 or after	JJ	76½	3 11 11	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	84½	3 11 0	—
India 4½% 1950-55	MN	111	4 1 1	3 8 8
India 3½% 1931 or after	JAJO	91	3 16 11	—
India 3% 1948 or after	JAJO	77	3 17 11	—
Sudan 4½% 1939-73 Av. life 27 years	FA	109xd	4 2 7	3 19 0
Sudan 4% 1974 Red. in part after 1950	MN	109	3 13 5	3 2 11
Tanganyika 4% Guaranteed 1951-71	FA	108xd	3 14 1	3 5 7
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	105	4 5 9	3 5 6
Lon. Elec. T. F. Corpn. 2½% 1950-55	FA	87½xd	2 17 2	3 8 1
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	103	3 17 8	3 15 5
Australia (Commonw'th) 3% 1955-58	AO	88	3 8 2	3 16 11
Canada 4% 1953-58	MS	108	3 14 1	3 6 11
*Natal 3% 1929-49	JJ	99	3 0 7	3 2 3
New South Wales 3½% 1930-50	JJ	96	3 12 11	3 18 0
New Zealand 3% 1945	AO	94	3 3 10	3 18 11
Nigeria 4% 1963	AO	110	3 12 9	3 8 4
Queensland 3½% 1950-70	JJ	96	3 12 11	3 14 4
South Africa 3½% 1953-73	JD	101	3 9 4	3 8 4
Victoria 3½% 1929-49	AO	97	3 12 2	3 16 4
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	86	3 9 9	—
Croydon 3% 1940-60	AO	96	3 2 6	3 5 0
*Essex County 3½% 1952-72	JD	102	3 8 8	3 6 8
Leeds 3% 1927 or after	JJ	85½	3 10 2	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	99	3 10 8	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	72	3 9 5	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	84	3 11 5	—
Manchester 3% 1941 or after	FA	85xd	3 10 7	—
Metropolitan Consd. 2½% 1920-49	MJSD	94½	2 12 11	3 1 1
Metropolitan Water Board 3% "A" 1963–2003	AO	87½	3 8 7	3 9 9
Do. do. 3% "B" 1934-2003	MS	88	3 8 2	3 9 3
Do. do. 3% "E" 1953-73	JJ	93½	3 4 2	3 6 3
*Middlesex County Council 4% 1952-72	MN	108	3 14 1	3 6 2
* Do. do. 4½% 1950–70	MN	113	3 19 8	3 5 3
Nottingham 3% Irredeemable	MN	84½	3 11 0	—
Sheffield Corp. 3½% 1968	JJ	101½	3 9 0	3 8 5
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	105½	3 15 10	—
Gt. Western Rly. 4½% Debenture	JJ	117½	3 16 7	—
Gt. Western Rly. 5% Debenture	JJ	128½	3 17 10	—
Gt. Western Rly. 5% Rent Charge	FA	127½	3 18 5	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	126	3 19 4	—
Gt. Western Rly. 5% Preference	MA	117½	4 5 1	—
Southern Rly. 4% Debenture	JJ	103½	3 17 4	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	106½	3 15 1	3 12 1
Southern Rly. 5% Guaranteed	MA	127	3 18 9	—
Southern Rly. 5% Preference	MA	116½	4 5 10	—

*Not available to Trustees over par.
‡In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.

, 1937

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n Stock
937.

‡ Approximate Yield with redemption
£ s. d.
3 10 2
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3 9 4
3 7 4
3 6 9
3 8 3
3 7 10
3 8 3
2 17 9
2 10 0
3 9 8
3 2 9
2 19 0
—
—
—
—
3 8 8
—
—
3 19 0
3 2 11
3 5 7
3 5 6
3 8 1
3 15 5
3 16 11
3 6 11
3 2 3
3 18 0
3 18 11
3 8 4
3 14 4
3 8 4
3 16 4
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3 5 0
3 6 8
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3 1 1
3 9 9
3 9 3
3 6 3
3 6 2
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